



# **Ombudsman Complaint A2008-0409**

## **Finding of Record and Closure Redacted Public Version**

Department of Health and Social Services

Office of Children's Services

May 25, 2012

## Table of Contents

SUMMARY OF COMPLAINT A2008-0409 .....	1
BACKGROUND .....	3
Agency Overview .....	3
INVESTIGATION.....	6
Methodology .....	6
The Complainants Apply for a Foster License .....	7
The Couple's First 15 Months as Licensed Foster Parents.....	8
The Complainants Seek Adoption through Catholic Social Services.....	10
CSS Asks OCS Employee to Conduct the Couple's Home Study .....	11
CSS Learns the Couple Was Accepting Foster Placements .....	13
Return of Foster Children Leads CSS to Remove Couple from Waitlist .....	13
OCS Social Worker Discusses the Children's Return to OCS .....	14
OCS Policy on Transitioning Foster Children between Placements .....	15
Home Study Writer Learns the Couple Still Has Their Foster License.....	16
OCS Foster Placement Policy and Practice .....	21
OCS Foster Placement Procedures .....	22
OCS Policy and Procedures Concerning Adoption .....	24
Alaska Center for Resource Families Role in OCS Adoptions .....	25
The Complainants' Intent with OCS was to Adopt .....	26
OCS Adoption Specialists Discuss the Dynamics of Adoption.....	27
Allegations of Social Worker's Conflict of Interest .....	28
OCS Policy Regarding Outside Employment.....	29
THIS SECTION REDACTED DUE TO CONFIDENTIALITY REQUIREMENTS .....	30
The Home Study Contract between OCS and CSS .....	30
ANALYSIS AND PROPOSED PRELIMINARY FINDINGS.....	31
Allegation 1: Analysis and Finding .....	32
Allegation 2: Analysis and Finding .....	36
Allegations 3 and 4: Analysis and Findings .....	36
Allegation 5 Analysis and Finding .....	38
OMBUDSMAN RECOMMENDATIONS AND OCS RESPONSE.....	40
Finding of Record and Closure .....	44



## **INVESTIGATIVE REPORT**

Ombudsman Complaint A2008-0409

(Finding of Record and Closure)

May 25, 2012

*This investigative report has been edited and redacted to remove information made confidential by Alaska Statute and to protect privacy rights.*

### **SUMMARY OF COMPLAINT A2008-0409**

On March 10, 2008, a South-Central Alaska resident contacted the Office of the Ombudsman to complain that the Office of Children Services (OCS) had failed to place foster children in his home the first year he and his wife became licensed foster parents.

The Complainant told the ombudsman that he and his wife applied to become foster parents in November 2006 because they hoped to adopt a child through OCS. In his complaint, the Complainant described the OCS staff, particularly in the Mat-Su office, as unresponsive, and he alleged that the Mat-Su OCS office treated him and his wife unfairly in comparison to other licensed foster parents they knew in the area.

The Complainant believed that OCS overlooked their home for foster placements because he and his wife had questioned OCS policies. He noted that his wife had questioned the foster care policy during foster parent orientation.

The couple told the ombudsman investigator that in 2007 they applied for and were accepted into the Catholic Social Services (CSS) infant adoption program. According to the Catholic Social Services Website, the non-profit organization's:

... Adoption Services program serves adoptive parents, birth parents and adoptees through child placement, education, counseling, home studies, post-placement services and continued family support.

CSS assigned a home study writer to prepare the Complainant's home study in April 2007. The home study writer worked full-time for OCS but also was employed on contract with CSS. The home study writer informed the couple of her employment status and she said they agreed she could write their home study.

In late 2007, however, the Complainants questioned whether it was ethical or legal for a state employee to work full-time as an OCS social worker and part time as a home study writer for a private adoption agency. The couple believed the OCS social worker's dual role constituted a conflict of interest. They believed that because they raised this issue, OCS sabotaged their efforts to adopt a child through OCS.

On March 20, 2008, the Complainant's Wife filed a complaint with the ombudsman in conjunction with her husband's complaint. The Wife alleged that OCS had violated confidentiality when a caseworker released the Complainants' names and information that they regarded as confidential to CSS without their consent. The Complainants believed this breach in confidentiality caused CSS to remove them from the CSS infant adoption list.

During a January 28, 2009, interview with the Complainants, the ombudsman investigator told the complainants the OCS statutes do not keep confidential the fact that a person is a foster parent. Alaska Statutes prohibit the state from releasing private information concerning foster parents that OCS obtains during the licensing process; such as the foster parents' medical history, criminal background information or financial matters; but the state is not restricted from disclosing the fact that an individual *is* a licensed foster parent with their agency. The complainants acknowledged that the state did not consider their foster license status to be confidential. The ombudsman found no evidence that shows OCS divulged confidential information concerning the foster parents or the children who were briefly in their home. The ombudsman investigator has therefore discontinued review of this allegation.

The ombudsman must add that the Complainants notified CSS that they were foster parents when they first contacted CSS. It seems a bit disingenuous to then complain that OCS notified CSS that they were *still* foster parents.

Finally, the Complainants alleged that it was a conflict for OCS to contract with a private adoption agency to write home studies for the state when that private agency is dependent upon OCS for its annual licensure as a child placement agency.

The couple was referring to a 2007 grant that OCS awarded to CSS to write home studies for OCS. One of the responsibilities of the Department of Health and Social Services is to license child placement agencies; therefore CSS relies on OCS to renew its child placement license. The Complainants considered this working relationship to be a conflict of interest.

The Complainant said he had voiced his concerns about the alleged conflict to then-OCS Director Tammy Sandoval in early February, 2008 when the couple started complaining that they weren't getting foster placements. He said Ms. Sandoval assured him that OCS was treating him and his wife the same as other licensed foster parents. In addition, he said Ms. Sandoval assigned a specialist from the Anchorage OCS office to help the Complainants navigate the OCS foster care and adoption processes. The Complainant told ombudsman investigators later that the person assigned to assist the Complainants did not satisfy the couple; they continued to feel that OCS thwarted their efforts to adopt a child.

The ombudsman opened an investigation into the following allegations stated in terms to conform to AS 24.55.150, which authorizes the ombudsman to investigate complaints about administrative acts of state agencies:

***Allegation 1: Unreasonable: OCS staff in the Mat-Su office unreasonably and intentionally failed to attempt to place foster children in the complainants' home the first 15 months they were licensed foster parents.***

***Allegation 2: Unreasonable: OCS did not follow its own policy by not referring the complainants to the OCS adoption screening process after they became licensed foster parents and declared their desire to adopt children through OCS.***

***Allegation 3: Contrary to law: The OCS social worker who prepared the complainant's home study for a private adoption agency knowingly violated OCS policy 3.24.4 which prohibits such arrangements.***

***Allegation 4: Contrary to Law: The social worker's actions in working for OCS while also contracting to work for Catholic Social Services constituted a violation of the Alaska Executive Branch Ethics Act.***

***Allegation 5: Arbitrary: (Inadequate standards for delegation of authority) The Office of Children's Services awarded a grant to a private non-profit social service agency to conduct home studies, while at the same time administering the agency's child placement license.***

Ombudsman Linda Lord-Jenkins gave written notice of the investigation to then-OCS Director Tammy Sandoval on June 18, 2008, in accordance with AS 24.55.140. Assistant Ombudsman Gwen Byington investigated the complaint and forwarded her report to the ombudsman.

## **BACKGROUND**

### **AGENCY OVERVIEW**

The mission of the Office of Children's Services is the protection of children. OCS strives to accomplish this goal through prevention and by taking corrective action to stop repeated child abuse, neglect, and child exploitation. OCS works to accomplish its mission by focusing on four specific goals:

- Child safety,
- Permanency for children,
- Cultural continuity for children, and
- Child and family well-being.<sup>1</sup>

To promote permanency for the children in state custody, OCS makes permanency planning a primary consideration in its plan for each child. The state believes every child has the right to live in a permanent and safe home. OCS prefers to maintain the child in the parent's home whenever possible.<sup>2</sup> If that is not possible, OCS works to place the child in an alternate

---

<sup>1</sup> Section 1.1 of the OCS CPS manual.

<sup>2</sup> OCS Manual at 3.4 PLACEMENT a & b.

permanent home. AS 47.10.088 requires that children in custody be placed with relatives if the relatives meet other requirements.

An OCS permanency plan includes the following objectives:

- Within one year of taking custody of a child, OCS shall return the child to the family home or place the child in another permanent home.
- Children removed from their home will not experience more than two placements or two removals prior to placement in their permanent home. Children for whom there has been a substantiated report of harm and who are left in their parental home shall not have another report of harm within three months of completion of the investigation.
- Whenever OCS has removed a child from their parental home, OCS will make every attempt to place the child with a relative or ethnically or culturally related family as a possible alternative permanent care provider within 90 days of removal.<sup>3</sup>

The foster program is an important component within OCS. After OCS determines a child meets OCS criteria as a “child in need of aid,” the agency can take emergency custody. OCS is then responsible for finding an appropriate foster placement for that child. State law requires OCS to follow specific criteria when attempting to place children. The first consideration is whether relatives or close family friends can protect and care for the children. Placement criteria then favor placing a child in the child’s home community and in the least restrictive setting. In cases involving Native children, OCS must meet additional placement criteria set out in the federal Indian Child Welfare Act (ICWA).

OCS provides some child welfare services directly to Alaskans but OCS procures other services from private providers through grants and contracts. OCS is ultimately responsible for providing a continuum of child welfare services whether directly through the agency or through a contracted service provider.<sup>4</sup>

OCS has a statewide information system database to manage its child protective services caseload. The database is known as the Online Resources for Children in Alaska (ORCA) information management system. OCS implemented ORCA in January 2008. ORCA tracks every child in state custody. Through ORCA OCS can identify a child’s legal and placement status, the type of custody, and whether the child is pre-adoptive or on a trial home visit.

Demographic information about children in custody is also tracked in ORCA, i.e., age, gender, ethnicity, and tribal affiliation.

In addition to this demographic information, ORCA provides intake, investigation, case management, adoption, and provider management data. ORCA also identifies permanency goals

---

<sup>3</sup> Child Protective Services Policy Manual Policy 1.1 Purpose

<sup>4</sup> Section 2.7 Child Protective Services (CPS) Manual and AS 47.14.100

for all children in out-of-home care and is the information system for eligibility of services determination, payment processing, and personnel functions.<sup>5</sup>

Information about licensed foster parents is also included in the ORCA database. ORCA also provides each OCS office with a statewide list of licensed foster parents.

OCS workers who place children into a foster home are responsible for entering into ORCA pertinent demographic information and placement information regarding each child. The integrity of the data is dependent upon OCS staff entering the data accurately and timely.

Before obtaining a foster license, a prospective foster parent must successfully complete foster parent training known as CORE. [Ombudsman note: CORE is not an acronym for anything.] OCS developed the training curriculum but the training itself is conducted by the Alaska Center for Resource Families, (ACRF) an agency of the non-profit Northwest Resource Associates which provides a variety of services in the human services community. Information provided in the current OCS Family Resource Handbook states of CORE:

Core Training covers information about the child protection system, separation, grief and loss, visitation and birth families, positive parenting, and transitions back to birth parents. Core Training meets the training requirement for the first licensing year. Annual training is required. A one-parent home must complete 10 hours of training annually. A two-parent home must complete 15 hours. This can be split between each parent; however, each parent must receive a minimum of 5 hours.

The ACRF has offices in Fairbanks, Anchorage, Mat-Su, and Juneau. Along with training, the ACRF provides referral services and support for foster and adoptive parents, relative caretakers, and guardians. In addition to providing the courses required for people to become a licensed foster parent, ACRF provides the on-going training required to maintain a foster license. ACRF provides both onsite and teleconference training. The non-profit agency offers these services to interested parties free of charge.<sup>6</sup>

According to the OCS and Resource Families training presentation for 2007, of the 2102 children taken into OCS custody in 2007:

- 41 percent were placed in non-relative foster homes;
- 31 percent were in relative foster placements;
- 13 percent were undergoing trial home visits;
- 7 percent were in residential placement;
- 1 percent (19 children) were in pre-adoptive placements;
- 5 percent were in group homes;

---

<sup>5</sup> Child and Family Review, Alaska Statewide Assessment, Alaska Department of Health and Social Services, Office of Children Services, July, 2008, Page 73.

<sup>6</sup> The Alaska Center for Resource Families Website is at [www.acrf.org](http://www.acrf.org).

## INVESTIGATION

## METHODOLOGY

The ombudsman investigator reviewed relevant statutes and regulations, agency policy and procedures, and interviewed the following persons.<sup>7</sup>

- The complainants;
- Tammy Sandoval, then-Director, Office of Children Services (OCS);
- Richard Nault, then-Deputy Director, OCS;
- Susan Frisby, Community Care Licensing Specialist III, OCS;
- Tracy Spartz-Campbell, then-Social Services Program Officer, OCS;
- Abigale Henderson, then-Social Worker V, Staff Manager, OCS, South-central Regional Office (SCRO);
- Sara Childress, Social Worker V, OCS, Anchorage;
- Julie Hubbard, Community Care Licensing Specialist II, OCS, SCRO;
- Thomas Hildreth, Community Care Licensing Specialist I, OCS, SCRO;
- Rebecca Scales, Social Worker II, OCS, Mat-Su;
- The Adoption specialists for Anchorage, Wasilla, Fairbanks, Petersburg, Juneau, and South Central Regional Office.
- Susan Bomalaski, Director, Catholic Social Services, Wasilla;
- Voni Madsen, Program Coordinator of Infant Adoption Program, Catholic Social Services, Wasilla;
- Snow Snow, Human Resources Specialist II, Department of Administration, Division of Personnel and Labor Relations;
- Fran Rabago, Human Resources Specialist, Department of Administration, Division of Personnel and Labor Relations;
- Nicki Neal, Director, Department of Administration, Division of Personnel and Labor Relations;
- Aileen McInnis, Training Coordinator, Alaska Center for Resource Families, Anchorage office;

---

<sup>7</sup> Many of the people interviewed have changed employment or have retired since the onset of this investigation. The employment titles listed were relevant at the time of the interviews that occurred in 2009 and 2010:



- Betsy Woodin, Training Coordinator, Alaska Center for Resource Families, Wasilla office;
- Karilee Pietz, Social Services Program Officer, OCS, Juneau;
- Gudrun Bergval, OCS Program Coordinator, Juneau;
- Judy Bockmon, Assistant Attorney General in charge of executive branch ethics.

The ombudsman investigator also reviewed the complainant's foster parent licensing file, the contract for services between OCS and Catholic Social Services, and the Social Worker's ethics disclosure form.

## **THE COMPLAINANTS APPLY FOR A FOSTER LICENSE**

On April 25, 2006, the Complainant and his wife signed a foster parent licensing application. The Mat-Su OCS office referred the Complainants to the Alaska Center for Resource Families CORE training program. The Complainants worked directly with Mat-Su OCS Licensing Specialist Tom Hildreth during the licensing process.

In the couple's foster home license application, the Complainants indicated they were interested in fostering children of either gender, age birth to 5 years old. On the application, the Wife wrote that they wanted to adopt a child through the agency.

The ACRF records indicate that in 2006 the Complainants successfully completed the CORE training to become licensed foster parents. The records also indicate that the Complainants completed the necessary paperwork and passed the OCS background and home inspection reviews.

According to Aileen McLinnis, then-Training Coordinator for the Anchorage ACRF office<sup>8</sup>, ACRF records also indicate the Complainants did not participate in the classroom lectures for the two courses ACRF offered on adoption. However, the record does reflect the Complainant completed Unit 11 of the self-study workbook. Unit 11 gives an overview of the adoption and guardianship process. According to ACRF records, the Wife also completed the homework assignment for CORE Session 7, but did not attend the class lecture. CORE Session 7 is a three-hour class providing an overview of OCS adoption and guardianship practices.

OCS approved their foster parent application and issued a one-year provisional license to the couple on December 28, 2006. The license was in effect from December 28, 2006 through December 27, 2007. The license specified they were eligible to have up to two children placed at any one time in their home. The license specified that the ages of the children to be placed with the couple would be from birth to 11 years.

OCS renewed the Complainant's foster license for an additional two years on January 28, 2008. Community Care Licensing Specialist III Susan Frisby signed their biennial foster license, effective December 27, 2007 through January 27, 2010.

The biennial license indicated that the Complainants wanted no more than two children aged 0 to 11 years. On the 2008 application, the Wife again wrote they wanted to adopt a child through the

---

<sup>8</sup> Ms. McLinnis has since been named ACRF Director.

agency. Adoption remained their primary goal throughout their participation in the foster care program, the couple told the ombudsman investigator.

From November 2007 to January 2010 when their foster license came up for renewal the Complainants had a contentious relationship with OCS over the failure to place children in their home.

The Complainant's foster license lapsed in January 2010 and they did not seek to renew their foster license and are not licensed with OCS as foster parents.

### ***The Couple's First 15 Months as Licensed Foster Parents***

The Complainant told the ombudsman investigator that he and his wife received approximately six foster placement calls from the Mat-Su OCS office during the first 15 months they were licensed foster parents. None of the calls resulted in children being placed in the couple's home. According to the Complainants, they wanted more time to decide whether to accept the proffered placement, or OCS was unable to reach them on short notice. The Complainants also expressed frustration with OCS because the workers would call them on their home phone, but not on their cell phone, to place children. They said that when no one answered their home phone OCS caseworkers would leave messages asking that they call the OCS office. The Complainants said they would retrieve their messages when they arrived home after work and return the agency's call. However, by the time they were available to call the OCS office, caseworkers had already placed the children in another foster home.

The Complainants said that during the first 15 months that they were licensed foster parents and weren't getting placements they repeatedly asked OCS to add their cell phone number to the foster parent call list. The ombudsman investigator reviewed the couple's licensing file and found that the couple's cell phone number was in their licensing records. However, caseworkers referred to the OCS Wasilla office foster parent call list, not the licensing file, when seeking foster homes for children and it is unclear when OCS added the couple's cell phone numbers to the foster parent call list. Their number was on the call list when the ombudsman investigator reviewed it in late 2008 but there was no way for the investigator to determine when OCS added the couple's cell phone number to the call list.

The ombudsman investigator found notes that Wasilla OCS Licensing Specialist Tom Hildreth on January 30, 2008 entered in ORCA for the Complainant's foster home:

Sheridan [Degranges] and I discussed placements; the fact that we did over the last year make several calls to this home to either not have the phone answered, leave message and call returned a day or two later, or to decline having any children placed. The only placement that was done was 4 children on a Saturday, only have the children returned to OCS 4 or 5 days later.

...

Discussed the Foster Home list, how their [phone] numbers, (home, work, cell) are on the form, the process in which workers (sw's and licensing) make phone calls, and other matters in regards to placing children.

ORCA records indicate the couple e-mailed Sue Frisby two months later on March 3, 2008, and listed four contact numbers for them: their cell phone number, work numbers, and home number.

After the Complainants started contacting OCS and HS&S upper management to complain about children not being placed in their home, OCS Wasilla staff began logging their efforts to place children with the couple. From March 2008 through July 2008, the Mat-Su OCS caseworkers logged several calls they made to the couple in an effort to place foster children with them. They logged nine different contacts with the Complainants. ORCA records indicate the following contacts OCS workers made to the couple's home, work and cell phone in an effort to place foster children with the couple. The results of those calls were also logged.

1. On **March 27, 2008** OCS attempted to place a child with the couple. The Complainant declined the placement because his wife had the flu.
2. On **April 2, 2008** OCS attempted to place three children, 6 months, 2 years and 4 years old. The Wife received the call and said she would have to talk to her husband and they would call the caseworker back. The licensing worker explained to the Wife that there was no permanency plan in place and it was unknown if there were special needs issues with the children and it was unclear how long they would be placed with the Complainants. On April 3, 2008 Sue Frisby telephoned the licensing worker and indicated the couple was unable to take the children and preferred to take children that are adoptable. Ms. Frisby entered her notes into ORCA concerning her April 3, 2008 conversation with the Complainant. She wrote, "[The Complainant] said he'd have to decline placement because if the mother was FAS, it was possible the children would be too and he sees how difficult FAS children present."
3. On **May 12, 2008** a licensing worker called the Complainants and left messages on their home and cell numbers. OCS was seeking a permanent placement for a child who was close to being legally free to adopt. The ORCA record indicates two other foster families were contacted at the same time as OCS contacted the Complainants. While the Complainants were considering accepting the child, one of the other foster families contacted OCS and agreed to take the child into their home.
4. An OCS caseworker telephoned the Complainant on **June 16, 2008** and asked whether or not he and his wife would be interested in accepting placement of a sibling group of two; a three-year-old girl and a five-year-old boy. The Complainant told the worker he would talk to his wife and call back with a decision. ORCA notes do not reflect what happened with this foster placement but the children were not placed with the couple.
5. An OCS caseworker attempted to contact the couple. The ombudsman was unable to determine the date but the contact was noted chronologically in the log. The worker left a message on the home number. She noted that when she telephoned the cell number a recording came on indicating the phone number was no longer in service. The ORCA records indicate the sibling group included two girls, ages six and one and a boy, age two. The Complainant later told OCS they could not accept placement because they had only one bedroom for the children to sleep in and he would not be comfortable having the boy sleep in the same room with the girls. [Ombudsman note: In November 2007 the couple had accepted the placement of three siblings and their cousin in the same home. The siblings were of both genders.]
6. On **June 24, 2008** an OCS caseworker attempted to call the couple concerning a foster placement for a sibling group of three. The worker left a message. The log did not

indicate which number or numbers the caseworker called. She wrote in ORCA that by 6:00 p.m. there had been no response from either of the Complainants. The children were placed in another foster home.

7. On **June 25, 2008** an OCS licensing specialist telephoned the couple for a potential placement of a seven- and nine-year-old. The worker left a message on their home phone. The worker noted the work number was no long in service and the cell phone was not accepting messages.

Ombudsman Note: A **July 1, 2008** ORCA entry by Sue Frisby is an e-mail string between the couple and Ms. Frisby. The Complainant's e-mail states they are only interested in foster placements of children who are legally free to adopt. The record indicates Ms. Frisby made note in ORCA to only contact the couple if the foster child was legally free to adopt.

8. On **August 7, 2008** an OCS licensing worker contacted the Complainant on his cell phone and asked whether or not he and his wife would consider accepting a legally free foster child, a 15-year-old female. The couple declined the foster placement because of the child's age. They said they felt there was insufficient time left between then and the child's emancipation at 18 to bond with her.
9. On **February 17, 2009** an OCS licensing specialist attempted to contact the couple concerning three legally free children, two boys, aged six and five, and a girl aged three, needing an immediate placement. The cell phone voice mail system was full so that the worker was unable to leave a message according to the ORCA log. The worker then telephoned the couple's home and left voice message for them. The worker also called the work number provided but he noted he was unable to leave a message on that number. The children were placed with other foster parents.

The ORCA records do not indicate if the workers who contacted the Complainants through this time period had reviewed their criteria for children they would accept before calling them nor is the ombudsman able to determine how many of the children met the couple's criteria.

### ***The Complainants Seek Adoption through Catholic Social Services***

On March 18, 2007, the Complainants applied to Catholic Social Services (CSS) for acceptance into the agency's infant adoption program. Voni Madsen was the Catholic Social Services program coordinator for the infant adoption program in 2007.

According to Ms. Madsen, the couple contacted CSS in March, 2007 and expressed an interest in adopting a newborn through CSS. The Complainants were referred to the CSS weekend orientation where they filled out their adoption application. Ms. Madsen told the ombudsman investigator that in the CSS orientation, prospective adoptees were informed of the CSS policy requiring the adoptive family to maintain a stable home environment for at least one year before CSS will consider placing an adoptive child into the home.

CSS policy concerning eligibility requirements for adoption through the CSS adoption program are explained in the information packet provided by CSS. The packet entitled "*Catholic Social Services: A Values Based Adoption Program Information Packet*," states the following on pages six and seven. This publication can be found at the agency web site.

**Other Children in the Family:** Generally, CSS does not place a child who is older than the oldest child in the home, whether by birth or adoption. Exceptions are made when such a placement would not be harmful to any of the family members. If there are foster children in the home, this will be discussed with the family to understand how adoption will affect them and the adopted child.

Experience has shown us that it is wise to have a minimum of one year between the arrivals of each child in the family in order for everyone to have enough time to adjust to the changes in the family. CSS will not consider a second adoption until the legal adoption of the first child has reached its one-year anniversary. If an adoptive mother becomes pregnant during the adoption process, CSS needs to be notified so that the file can be removed from the active status. The same holds true if you adopt from another source.<sup>9</sup>

According to Ms. Madsen, if any other children have been in the potential adoptive home for less than a year at the time of a pending adoption placement; CSS will not approve the placement. She said the purpose of this policy is to provide stability and continuity for the newborn.

Ms. Madsen told the ombudsman investigator that when the couple interviewed with her in March 2007 they told her they were licensed foster parents. Ms. Madsen said she spoke at length with the couple about CSS's policy not to accept foster parents who were accepting foster children into their home. She said she also told them they would not be considered for CSS's newborn adoption program if they intended to continue to accept foster care child placements. Ms. Madsen said she asked the couple to withdraw their foster parent license. She said she also told the couple that if foster children were coming and going from their home, CSS would remove them from the CSS option wait list.

According to Ms. Madsen, the couple assured Ms. Madsen they were not interested in pursuing future foster care placements. She said the couple told her they were disillusioned with OCS and the foster care program. Ms. Madsen said the Complainants were quite clear with her when they said they did not want to adopt a child through the state OCS; they told her they were interested in a private adoption.

The Complainants denied that this conversation took place when they participated in a sworn interview with the ombudsman.

## **CSS ASKS OCS EMPLOYEE TO CONDUCT THE COUPLE'S HOME STUDY**

CSS processed the couple's adoption application and scheduled their home study in May 2007. Ms. Madsen requested a CSS contract employee who worked full-time as a Social Worker at OCS to conduct the interview and write up the home study for the couple.

The home study writer's full-time job in 2007 was that of an OCS social worker who worked as the region's adoption specialist. The Social Worker also worked part-time for CSS as a home study writer. She told the ombudsman investigator she performed her secondary job duties for

---

<sup>9</sup> Catholic Social Services : A Values Based Adoption Program Information Packet, pp. six and seven. (This publication can be found at the agency web site at: <http://www.alaskaadoptionsservices.com>)

CSS outside her normal working hours with OCS and with the permission of her OCS supervisors.

Ms. Madsen said she was aware it was against OCS policy for an OCS worker employed as a contract employee for a private organization to prepare home studies for licensed foster parents who were accepting foster placements from OCS. Ms. Madsen said that when she asked the Social Worker to write the couple's home study, she told the Social Worker the Complainants were licensed foster parents; but that they had assured Ms. Madsen they did not intend to pursue foster placements once CSS accepted them as prospective adoptive parents. The Social Worker interviewed the couple in May and completed their home study in July 2007. Ms. Madsen, the Social Worker, and the Complainants told the investigator that the home study recommended that CSS accept the couple as adoptive parents and based on that study, CSS placed the couple on the newborn adoption waiting list.

The Social Worker said she first met the couple when Catholic Social Services (CSS) referred her to write a newborn adoption home study of their home for CSS's adoption program in April 2007. She told the ombudsman investigator that the couple had not been referred to her as a family interested in adoption through OCS when they were first licensed by OCS. She said the couple told her at the April 29, 2007 home study meeting that they were not interested in adopting children through the OCS foster care program and were no longer interested in being foster parents.

The Social Worker told the ombudsman investigator that she spent several minutes explaining to the couple that if they intended to continue to participate in the OCS foster parent program, she would not be able to do their home study. The Social Worker said she explained to them that she worked full-time at OCS and part-time at CSS. The Social Worker said she told the couple it would be a conflict of interest for her to prepare a home study for CSS if they – or any other clients - were accepting foster placements in the OCS foster parent program. According to the Social Worker, the Complainants assured her they were not interested in continuing in the OCS foster parent program, and they requested she complete the home study.

The Complainants recalled the conversation very differently. The Couple told the ombudsman investigator that the Social Worker did *not* discuss with them her potential conflict of interest. They also said they were completely unaware that CSS would not adopt a child to an active foster home that had accepted a new member into the household within the prior year.

The Couple also denied telling the Social Worker they intended to discontinue OCS foster placement services or that they were no longer interested in participating in the OCS foster parent program. They told Ms. Byington they had their framed Foster Parent license hanging on their living room wall when the Social Worker made her home study visit to them so, they reasoned, she knew they were foster parents.

The Couple also told the ombudsman investigator that the Social Worker knew they were licensed foster parents and included that information in the home study report. The ombudsman obtained and reviewed the home study. However, the contents of a home study are confidential by law; therefore the ombudsman cannot include that information in this public report.

The Social Worker, Ms. Madsen and the Couple said the Social Worker recommended that CSS accept the Couple into the CSS infant adoption program. CSS added the Couple's name to the

CSS infant adoption waitlist and put their adoption portfolio in the pool of portfolios for biological parents to consider as potential adoptive parents.

The couple maintained their OCS foster parent licenses after CSS had accepted them into the CSS infant adoption program in the fall of 2007.

### ***CSS Learns the Couple Was Accepting Foster Placements***

According to Ms. Madsen, in November or December 2007, CSS learned the couple was still accepting OCS foster placements despite their promise to return their license. She said she scheduled a meeting with the couple wherein they initially denied that they hadn't returned their license; but later they admitted taking foster children into their home. They explained it was because the foster placement was an emergency and was only temporary. Ms. Madsen said she talked to the couple about the CSS program policy violation. The Complainants told her they disagreed with the CSS policy. Ms. Madsen and the Complainants could not resolve the issue and ultimately they agreed the couple's names would be removed from the CSS infant adoption waitlist for one year.

The couple told Ms. Madsen they believed they were within their rights to continue to seek a child to adopt through the OCS foster parent program while at the same time participating in the CSS infant adoption program. As part of its adoption program, CSS does a one-on-one meeting with prospective adoptive parents and then invites the parents to attend an orientation which addresses practical aspects of the process: costs, paperwork, information about the home study, etc. CSS says that its prohibition on having no family members – foster family or others -- come into or leave the family more often than once a year is covered in the orientation.

The Complainants told the ombudsman investigator they never were made aware of that requirement. During the January 28, 2009 taped interview with the Complainants and ombudsman investigators, the Wife said she was unaware of the CSS policy and she was unaware she could not be a foster parent while attempting to adopt a child through CSS.

### ***Return of Foster Children Leads CSS to Remove Couple from Waitlist***

On November 3, 2007, OCS placed four foster children, a sibling group of three, ages 10, 8, and 6, and their cousin age 5, in the couple's home. Four days later the Husband visited the Mat-Su OCS office to talk to caseworker Rebecca Scales, the worker who had placed the children in the couple's home. The Husband later complained to OCS central office managers that he had waited four hours to see the worker and their discussion lasted only one minute. Ms. Scales stated the Husband did not have an appointment to meet with her. She said he waited approximately 45 minutes to see her while she participated in a scheduled meeting, and their conversation was much more extensive than would have been possible in one minute. She said they discussed the children and planned family visitation.

The Complainant said he expressed his concerns to Ms. Scales that OCS was going to begin visitation between the children and their biological family. He said he believed family visitation was not in the children's best interest. The Complainant told the ombudsman investigator he left feeling frustrated and that his questions went unanswered. The Complainant said that later that afternoon, he returned the four foster children to the Wasilla OCS office and left them there.

During the January 28, 2009, ombudsman interview with the couple, the Complainant said he returned the children to OCS without warning because he and his wife disagreed with OCS's

decision to allow visitation between the children and their family. The Complainant pointed out there were legal issues involving the children's biological parents and drug use in their household.

The Complainant told the ombudsman investigator that when the four children were placed in their home, OCS told him there would be no family visits and if either of the Complainants observed the children's family members near their home or car they were to lock the doors and call the police. The Complainant said he was confused when, two days later, OCS announced its intention to move toward reunification by allowing the children visitation with family members.

The Wife said she and her husband thought it was important that Ms. Scales know what the children were saying about their home life. The Complainants said they disagreed with OCS's decision to begin visitation between the children and their relatives.

The Complainant apparently was unaware the family visitation was being scheduled for the sibling group of three to visit their biological father, who was not living in the home during the abuse, and who was not considered an immediate safety threat to the children.

### ***OCS Social Worker Discusses the Children's Return to OCS***

Rebecca Scales is the social worker who placed the four siblings in the couple's home on November 3, 2007. She remembered having several conversations with the Complainants. She said during her initial contact with the Complainants about the four children, they responded with enthusiasm. But by November 7, the Complainants came to the OCS office with concerns. He said the children had been acting out; the youngest girl – the cousin -- had stolen a pair of earrings.

Ms. Scales said the Complainant came to the Wasilla OCS office without an appointment to speak with her. Another OCS employee told him that Ms. Scales was in a meeting and he agreed to wait. She also said someone interrupted her meeting and told her the Complainant was waiting to speak with her. Ms. Scales said he waited about an hour. She eventually left the meeting to speak with him. Ms. Scales said she did not keep the Complainant waiting for four hours as the Complainant alleged.

Ms. Scales said the Complainant expressed his concerns over the children's behavior and wanted to return them to OCS. He said he wanted the children out of his home that day.

Ms. Scales said being returned was hard on the children; they were being rejected. She said the Complainant was angry and upset. The caseworker said she had spent a lot of time with the couple talking to them about the children's biological parents. She said the Complainant had unrealistic expectations; he believed the parents' rights needed to be terminated immediately. Ms. Scales said she explained to him how the CINA-foster placement-adoptive system worked. She said he disagreed with the system and the timeline for adoption. She said he also was upset Ms. Scales could not guarantee the children would eventually be put up for adoption and he disagreed with the notion of reunification.

Ms. Scales said she also pointed out to the Complainant that a relative might surface, and in that case the children would have to be placed with the relative. Or, the parents might do a huge turn around and regain custody of the children.



She said the Complainant then wanted to know why OCS had not called before the November 2007 placement, and why there were no children available for adoption.

At the outset of this placement, she said, the Complainants thought the children were "awesome" but four days later, they had changed their minds. Ms. Scales said after the Complainant returned the children he called to say he and his wife would take the youngest girl back into their home and expressed an interest in adopting the little girl. By that time, though, the children had been placed in another foster home and she told them that the children could not be moved again; it was too disruptive for the children and not in their best interest.

When the Husband expressed his interest in adopting the youngest child, Ms. Scales said she would remember their interest. The girl was eventually placed with a relative, and later adopted by that family. The three older children were also adopted.

Ms. Scales said the Complainant was angry and filed a complaint with her supervisor saying Ms. Scales was not supportive.

Ms. Scales states she spent more time with the Complainants than she normally spends with other foster parents going over how the system works. She said she even went so far as to babysit the children one day when the Wife had to work.

### ***OCS Policy on Transitioning Foster Children between Placements***

As stated earlier, Ms. Scales told the Complainant that returning the youngest child to his home after he suddenly returned the children to the Wasilla OCS office would be too traumatic for the child. Returning the children to OCS with no transition also runs contrary to the OCS policy on moving children out of foster placements.

**Section 3.7 of the OCS Child Protective Services Manual** titled "Change or termination of a Placement" instructs caseworkers in how to transition a non-emergency change in placement. Sub paragraph B4 reads:

A foster parent or out-of-home caregiver who requests a non-emergency change in placement is required to provide OCS with reasonable advance notice of the requested change.<sup>10</sup>

**Section 3.7** outlines the services OCS caseworkers are to provide to a foster child throughout the transition period. The services are designed to prepare all parties for the separation and help them cope with their feelings about it. According to ORCA, OCS workers did provide transition services as best they could once the children had been left at the Wasilla office, but the Complainants did not provide OCS with the opportunity to transition the children out of their home to another placement. At all times, the best interest of the children is taken into consideration whenever a placement change is considered.

The OCS records indicate this was the only foster placement the Complainants received into their household.

---

<sup>10</sup> Office of Children's Services, Child Protective Services Manual. Section 3.7.

### ***Home Study Writer Learns the Couple Still Has Their Foster License***

The Social Worker said she only became aware that the couple was still accepting foster children when the Complainant returned the four children to OCS in November 2007, five months after the couple told her they weren't accepting foster placements. She said she immediately reported the situation to her supervisor, James Steele. She said she explained to him that she had prepared the Complainants' adoption home study for CSS. The Social Worker told the ombudsman investigator she was concerned that it was a conflict of interest for her to have written their home study. She was also concerned about any potential ethics violations that might result from her decision to prepare their home study for CSS knowing they were licensed foster parents.

The Social Worker and Mr. Steele told the ombudsman investigator that he instructed the Social Worker to contact CSS and tell them one of the couples on their infant adoption wait list who was a licensed foster parent was continuing to accept foster placements while participating in the CSS infant adoption program. Mr. Steele said he did not instruct her to give CSS the name of the wait-listed foster parent; she was only to give generalities. He also directed that she no longer complete home studies for CSS pending review of the entire issue.

The Social Worker said she did as Mr. Steele instructed. The date or nature of this contact was not documented in ORCA. The Social Worker told the ombudsman investigator she telephoned Ms. Madsen at CSS; Ms. Madsen in turn contacted all the licensed foster parents on her infant adoption wait list and asked each couple to sign an agreement agreeing to notify CSS immediately if they decided to accept children from OCS or another social service agency into their home. Ms. Madsen told the ombudsman investigator that the Complainants were the only waitlisted foster parents who refused to sign the agreement. This apparently led CSS to believe they were the couple that the Social Worker was referring to in her earlier contact.

As stated above, the Social Worker told the ombudsman investigator she notified CSS immediately in November 2007 that the Complainants were still accepting foster placements. CSS appeared to have delayed by four months until March 2008 to act on the apparent violation of their rules. The ombudsman was unable to determine why CSS waited to act on the Social Worker's call that a CSS waitlisted parent was actively accepting foster children into their home in violation of CSS policy.

The Social Worker said she first contacted CSS by telephone to alert them that a potential adoptive parent on the active waitlist was violating the CSS rules against active fostering. However, the Social Worker e-mailed Ms. Madsen on February 3, 2008, to remind her that the Complainants held a foster license and were continuing to accept placements, including the failed November placement.

That e-mail, sent at 6:37 p.m. Sunday, February 3, 2008 from the Social Worker's SOA e-mail account, recounted the Social Worker's conversation with the Complainants during the home study when she explained that she would have a conflict of interest if she did a home study for CSS on active foster parents licensed by OCS. The e-mail stated:

As we discussed, when you assigned the [couple's] study to me last summer you indicated that the [Complainants] had been foster parents but were no longer interested in adopting through that avenue and were going to go through your newborn program instead. As I indicated earlier, when I arrived at the [couple's] home I was very clear in explaining where I worked and that if they had ANY interest in pursuing the

foster/adoption program or fostering through the SOA, I could not do their study and would find another writer for them. The [Complainants] assured me that the foster/adopt program was not a good fit for them since every child that they had been contacted about was 8 going on 35 or something to that effect. They talked to me about Greg Van Kirk and their discussions with him that in order to adopt through the state, they would have to "Play the foster care game," I reviewed this potential conflict of interest with the [Complainants] thoroughly and they assured me that they were not going to foster or adopt in the future and they did not want to get another writer. My study was for a recommendation of a newborn only and there was no recommendation for foster/adopt. Talk to you later.

Ms. Madsen replied on Monday, February 4 at 9:49 a.m. "Thanks for documenting this for me."

The Social Worker's e-mail did not mention the November incident wherein she learned that the Complainants had accepted children into their foster home nor did she mention that she had called CSS to alert them that an active foster parent was also on the CSS adoption wait list.

While the Complainants were dealing with CSS, they also were complaining about their situation to OCS managers and their elected representatives. Sometime between the November 2007 return of the four children and December 3, 2007, the Complainants contacted the office of Senator Charlie Huggins, one of the senators for the Mat-Su area. OCS Community Relations Officer Mike Lessman referenced Senator Huggins in an e-mail to Abigale Henderson and the Social Worker about the issue. In one e-mail Mr. Lessman stated "he [the Complainant] came to OCS for support but gave up in frustration;" he also admitted "he would take the kids back in a heartbeat."

In another e-mail, Mr. Lessman wrote to the Social Worker:

I am convinced we would NOT be reading this letter right now had he NOT been left to wait in the field office's waiting room for two hours before he could finally speak to a worker for one minute."

Mr. Lessman questioned what the Social Worker knows about the Complainants and their potential as a viable resource family.

In late December 2007 and early January 2008 OCS workers met twice to discuss the couple's case. Additionally, Mr. Hildreth scheduled the bi-annual review of their license which had been issued one month earlier. Their one year provisional license which is issued to all new foster parents was changed to a biennial license. The Complainant asked that the license be amended to allow them to have four children but OCS denied the request because they only had two bedrooms in the home. Mr. Hildreth said he told the Complainant that they can issue an emergency variance in the event that a specific group of children needs to be placed in their care. In fact, within two days of returning the four children in November 2007, OCS granted a variance for the Complainants to have more than two children in their two-bedroom home.

From December 2007 to May 2008 the couple dealt back and forth with OCS representatives to complain about their problems in getting foster-adopt placements. At some point during this time the couple was referred to OCS community care licensing specialist Sue Frisby, who works in the Anchorage OCS office. The couple told the ombudsman investigator that OCS Director Tammy Sandoval assigned Ms. Frisby to be their liaison to OCS and to help them find a child to adopt. This created another dispute between the couple and OCS.

The Complainant complained to the ombudsman that none of the foster children OCS attempted to place in their home met their adoption criteria.

As previously stated, the statewide OCS adoption specialists told the ombudsman investigator that when a couple establishes a narrow set of criteria for a child to adopt, it is unlikely OCS would be able to find an adoptable child that meets the criteria. The couple expected that OCS would review their adoption criteria to ensure that children being placed met their criteria before a social worker called them. When seeking a foster placement for a child, OCS caseworkers are under a time constraint to find a safe placement as quickly as possible. It is unclear whether the couple ever truly understood this. In 2009, Ms. Frisby wrote an e-mail to the couple explaining the placement process and the fundamental need to find an appropriate placement for the child. She said the placement process does not afford foster parents time to consider and call the OCS worker back with a decision.

The couple also believed that all attempts to place children in their home were to go through Ms. Frisby. They thought Ms. Frisby should call them with the potential foster child's information. Ms. Frisby said she attempted to explain to the couple that this expectation was unrealistic; that caseworkers did not have time to contact them via a third party.

The couple also said they believed Ms. Sandoval had assigned Ms. Frisby as their personal liaison at OCS. Ms. Sandoval denied that was her direction or intent; she said she assigned Ms. Frisby to work with them to help them better understand the function and level of services OCS was able to provide prospective adoptive parents.

On **February 11, 2008** the couple sent an e-mail to Sue Frisby stating they had hand-delivered a copy of their CSS home study to her on February 8, 2008. They indicate they were hoping for some "forward movement." Their e-mail also expressed their frustration over OCS's lack of action in finding an adoptable child for them.

Ms. Frisby responded the same day. She attached a brief summary of what OCS had prepared in their "criteria looking for in an adoption/foster placement" and asked them to make corrections where necessary. The Complainant amended the list and e-mailed it back to Frisby.

Ms. Frisby responded to the couple on February 14, 2008. The e-mail indicated she was arranging an appointment for the couple to meet with the adoption specialist. She also sent them a flyer on a training class she thought they might be interested in attending. They responded that they were not interested in further training because they already had taken 40 hours of classes.

On **February 15, 2008** they e-mailed Ms. Frisby again expressing their frustration in her failure to set up the meeting with Anchorage Office Adoption Specialist Gail Stadig. They added "Still waiting, being ignored and left fallow for over a year."

Ms. Frisby responded to the couple's e-mail that day. She told them she had given a copy of their CSS home study to Ms. Stadig who would contact Ms. Frisby for status updates on her progress in finding an adoptable child for the couple. The e-mail asks permission to disseminate the home study with the Northern and Southeastern OCS offices.

On **February 18, 2008** Ms. Frisby e-mailed the couple again, reminding them that it had been just one week since she was assigned their case and met with them. She reminded the couple the process takes time.

On **March 4, 2008** Ms. Frisby entered a note into ORCA stating that she had called the couple to set up a meeting with Adoption Specialist Stadig. The couple responded that day asking about the scope of the meeting and what might happen at the meeting. ORCA notes do not mention the results of this meeting.

CSS Executive Director Susan Bomalaski said Ms. Madsen told the Complainant on **March 10, 2008** that because the couple continued to accept foster placements, their adoption profile packet would be withdrawn from the adoption list. Ms. Bomalaski said that the couple's profile packets had been shown to birth parents seeking to relinquish their babies from the date the couple was accepted to the CSS program until CSS learned the couple was an active foster home.

Also on **March 10, 2008** the Complainant contacted the Ombudsman to file a complaint against OCS. He complained that OCS wasn't placing foster children with them and that an OCS worker was also doing home studies for a private social service agency. He alleged OCS was withholding foster-adopt placements because the Wife had questioned the foster care policy during CORE orientation.

Ms. Madsen and Ms. Bomalaski met with the couple on **March 18, 2008**. Ms. Bomalaski said the couple maintained they had the right to participate in as many adoption programs as were available to them because participating in multiple adoption agency programs increased their chances to adopt a child. The couple disagreed with the CSS policy that they could not actively foster children for OCS and remain on the CSS adoption list. Ms. Bomalaski recalls that they argued they were only accepting short term placements. She also recalls that when CSS would not change its stance, the Complainant threatened to call the Catholic Bishop and the news media, and to file a civil action against the agency. She said that she offered the couple a mediation to discuss the matter and the Complainant offered to contact an educator at the University of Alaska Anchorage.

The Complainants and the staff at CSS were unable to agree on this issue, and CSS removed the couple from the CSS infant adoption program active waitlist. The couple did not sue CSS; Ms. Bomalaski said she never heard back from them or any more about the UAA mediator.

On **March 18, 2008** OCS Deputy Director Richard Nault had his first contact with the couple. The exchange focused on two issues:

- Did the Social Worker violate the National Association of Social Worker code of ethics by acting in a dual role as a contract home study writer for CSS and by completing home studies on families in the Mat-Su Valley?
- Did the Social Worker violate the Complainant's confidentiality by reporting to CSS that he had taken in foster children?

On **March 19, 2008** Ms. Frisby notified Mr. Nault that the couple had just met with CSS worker Karen Lee Hollor who allegedly stated the Social Worker had contacted CSS and told them the couple had accepted four foster children into their home. She was referring to the family group that was returned to OCS in November.

On **March 20, 2008** the Wife called Ms. Frisby to notify her that CSS had removed them from their adoption list.

Also on **March 20, 2008**, the Complainant's wife contacted the ombudsman to complain that an OCS caseworker released the couple's name to CSS and notified CSS that they were active

foster parents. She said she and her husband did not authorize the OCS caseworker to reveal their foster parent status to Catholic Social Services. Once CSS learned of the complainants' status as licensed foster parents, they contacted the complainants and advised them they would be removed from their adoption wait list unless they terminated their foster parent license.

On **March 25, 2008**, Deputy Director Nault contacted Assistant Ombudsman Gwen Byington to discuss the case. He also expressed concern over whether it is possible for an employee to provide fair and impartial services to individuals when they have contact with them in a context which might have a negative impact on the client. In this case, Mr. Nault admitted the Social Worker should not have done the adoption home study for Catholic Social Services while she was employed at OCS and the Complainants were licensed foster parents.

On **March 27, 2008** the couple declined an OCS attempt to place a child with them because the Wife had the flu.

On **April 2, 2008** the couple declined to accept three children, 6 months, 2 years and 4 years old who needed immediate placement. There was no permanency plan in place, it was unknown if there were special needs issues with the children and it was unclear how long they would be placed with the couple. The Complainant's Wife received the call and wanted to talk to her husband about the children. On April 3, 2008 Ms. Frisby telephoned the licensing worker and indicated the couple was unable to take the children. Ms. Frisby entered her notes into ORCA concerning her April 3, 2008 conversation with the Complainant. She wrote:

[The Complainant] said he'd have to decline placement because if the mother was FAS, it was possible the children would be too and he sees how difficult FAS children present.

The Complainant told the ombudsman investigator he pleaded with OCS for improved services. He often stated OCS was not providing them with parity of services. In an **April 27, 2008** e-mail, the Complainant wrote to OCS Director Tammy Sandoval:

. . . all citizens are entitled to equal consideration for publicly funded services. Therefore, for a state funded department to deny services, even if a state statute were in place (to protect the state's interests) it might violate that precept. A good example is when the "civil rights" movement was going on in the 1960's many states had segregation laws as "Jim Crowe" laws that justified their behavior, they were struck down and a higher standard established for civil (individual) rights. Thus entitling all to equal access to tax payer funded services by all and any branch of government. This was to prevent agencies from selecting their "favorites" for services.

OCS notes from May 2008 through February 2009 reflect that social workers contacted the couple about child placements seven times and each time the couple either declined to accept the placements or did not respond before OCS found another placement. (See Ombudsman pp 10 and 11.)

### **The Complainants' Adoption Criteria**

The Complainants told the ombudsman investigator they wanted to adopt through the OCS foster program. They told OCS staff and the ombudsman investigator they were not interested in accepting foster placements in general; their desire was to only accept foster placements that would lead to an adoption. The Complainant said they felt they would spend money on a private

adoption that could be put to better use caring for a child adopted from OCS. They were specific when describing the type of children they would be willing to consider for foster placement. In February 2008, OCS Licensing Specialist Sue Frisby prepared a list of the couple's placement criteria after the couple complained that OCS wasn't placing children with them. The list is as follows:

- They preferred a child between the ages of 0-5, however if a sibling group had children older than five years they would accept an older child.
- They preferred a female child, but if OCS found a sibling group, only one child needed to be female.
- They would consider accepting foster children experiencing functional handicaps, such as hearing or vision impairment, some physical disabilities, and some developmental delays or emotional issues. However, before accepting a foster placement, the couple wanted to be able to discuss with OCS the special services needed and they wanted to be informed of what services each child received and how they responded to services.
- They might consider a child with sexual abuse issues, depending on the severity of the trauma and the child's response to intervention.
- They were willing to accept a baby born drug affected, but they were not willing to consider an alcohol-affected child.
- They were willing to have an open adoption, meaning the couple would maintain contact with the birth parents through cards and pictures of the child.

Ms. Frisby said that once the couple reviewed the criteria and verified that it was accurate, she mailed a copy of their adoption home study along with their adoption criteria to each of the regional adoption specialists statewide in hopes this would increase their likelihood of adoption. During the couple's January 2009 taped interview with the ombudsman investigator, the Complainant said that the children OCS attempted to place in the couple's home beginning in March 2008 did not meet their adoption criteria. He stressed that he and his wife were only interested in fostering children who met their criteria; and their purpose for being foster parents was their desire to adopt.

The ombudsman investigator interviewed each of the OCS regional adoption specialists and they all verified receiving the home study and adoption preference list from Ms. Frisby. Each adoption specialist told the ombudsman investigator that based upon the couple's extensive criteria; they didn't think that OCS was the proper venue for the couple to adopt a child.

## **OCS FOSTER PLACEMENT POLICY AND PRACTICE**

According to the Complainants, OCS contacted the couple approximately six times in an effort to place foster children in their home during their first 15 months as foster parents. But they grew concerned they were not receiving more placement calls from OCS.

The ombudsman investigator asked Ms. Frisby if sometime between December 2006 and March 2008 the Mat-Su OCS office staff might have inadvertently removed the couple from the foster parent call list the Mat-Su licensing office maintains.

Ms. Frisby said she was confident that the couple's names had been on the call log since the time OCS licensed them in December 2006, however, the investigator found that there was no documentation to support that belief. Ms. Frisby indicated that caseworkers also have a tendency to call foster homes with whom they have had previous positive experience. This practice occurs in offices statewide according to Ms. Frisby. It is possible the OCS caseworker will not contact new providers until after they have first made contact with known providers on the call list. There is nothing in the OCS policy and procedure manual indicating this practice is or is not allowed.

Ms. Frisby said that another consideration in this instance was the geographic location of the couple's residence. OCS is required to make every effort to place foster children in a setting that is the least disruptive to the child. OCS also tries to locate a foster care provider in the child's school attendance area. The Complainants do not live in an area of South-Central Alaska where many of the foster children from the Mat-Su area reside, Ms. Frisby said.

**Section 3.5 of the OCS Child Protective Services Manual** outlines foster placement practices. OCS must make every effort to first place foster children with a relative or with an individual with whom the children have already developed a positive and safe relationship.

The most important consideration when OCS places a child is whether the placement can accommodate each child's individual needs; the caseworker must determine the placement which is in the child's best interest. Caseworkers consider the child's age and developmental level, education needs, social adjustment, whether the child can be placed in a home with other children, and, for Alaska Native and American Indian children, the requirements of the Indian Child Welfare Act. When reunification is a part of the permanency plan, and it often is during early custody, OCS makes every effort to place children near their biological parents or custodian.

The policy manual also instructs caseworkers to place foster children whenever possible in a home that will allow the children to remain in their current school. Foster parents who live in the school district or attendance area where the children have been attending school are given first consideration. Finally, the OCS caseworker is instructed to look for a foster home setting that will be available for the duration of the placement. OCS recognizes that children who are moved multiple times can develop attachment disorders.

### ***OCS Foster Placement Procedures***

The Social Worker told the ombudsman investigator that during the time she worked with adoptions at the Mat-Su OCS office, the Wasilla office did not have a formal adoption screening process; therefore, the first time she met the Complainants was the day she arrived at their home in April, 2007 to begin the adoption home study for CSS.

She also said that she was unaware that the couple was seeking to adopt because no one had notified her of their interest.

The ombudsman investigator interviewed the OCS licensing specialists in the South-central (Mat-Su), Southeast, Northern (Fairbanks) and Anchorage regions to determine how each region administers the foster placement process. Each field office manages the foster placement program in their area differently.



### **Mat-Su Office Foster Parent Call List**

Mat-Su keeps a foster parent call list on an Excel spreadsheet listing the licensed foster parents in that area, their physical address, telephone number, the number of children currently in the home, and the number of children OCS has licensed them to have in their home.

When an OCS worker places a child in a foster home, the worker enters the placement information into ORCA. ORCA generates a placement report based on the information entered into the system. In Mat-Su the spreadsheet is maintained by licensing workers using information provided by child care workers. When a Mat-Su licensing specialist receives the placement report, the worker transfers that information to the Excel spreadsheet.

The flaw in this process occurs when a child care worker delays or forgets to enter this information into ORCA or does not notify the Mat-Su licensing specialist about the placement.

The three remaining regional offices rely on ORCA to locate provider availability.

### **Anchorage Office Practices**

In the Anchorage office, one social worker is assigned as a “placement worker.” The Anchorage caseworker contacts the placement worker with information concerning the child needing a foster placement. The placement worker goes into the ORCA database to research the child’s demographic information and their special needs. The worker then pulls up the foster parent list for the area and works to identify available foster homes that can best meet the child’s needs. The placement worker compiles a list of available foster homes and gives that information to the caseworker. The caseworker makes the final placement decision and enters the information into the child’s case in ORCA. ORCA issues notice to licensing specialists who then update their call list accordingly. Among other things, the purpose of the call list is to make sure the foster parents don’t have too many foster children placed in their home.

### **Southeast Region Practices**

According to the supervisor for the licensing specialists in the Southeast Region, this region relies primarily on the ORCA data system when looking for a foster placement. Southeast is geographically different from other parts of the state in that so many of the communities are located on islands and are accessible only by boat or float plane. In the Southeast region as in other parts of the state, the licensing specialists work to keep the child in their immediate community; they first search in the local community for available family members or family friends willing to care for the foster child. If OCS determines it is unsafe for the child to remain in that community, OCS will search outside the community for family members or individuals who have an established relationship with the foster child. If OCS is unable to locate family or friends available to accept a foster child into their home, the worker will then go to the data system in ORCA and begin searching for a licensed foster home that can best meet the foster child’s needs.

### **Northern Region Practices**

The Northern Region has perhaps the most comprehensive foster placement system. The Northern Region adoption specialist said the Fairbanks office relies on the ORCA database when

searching for foster placements. The licensing specialist section for the Northern region is located in the Fairbanks office but includes the remote communities in that region.

When an OCS caseworker needs a foster placement in the Northern Region, they begin the process by completing a "Request for Placement" form and submitting it to the licensing section. The form contains the child's name, age, gender, school, reason for placement, date the placement is needed, anticipated length of placement, whether the placement falls under the ICWA requirements, the child's current home, and homes the caseworker may have already contacted. The caseworker includes information that will help the licensing specialist identify an appropriate home. The caseworker also provides information concerning visitation, whether the child has appointments scheduled, and whether the foster parent is expected to meet those appointments. The licensing specialist enters the request into a log. The log serves as a caseload management tool. The licensing section then begins to search ORCA and retrieve a list of potential placements for the caseworker to consider.

The back of the placement request form contains a grid that allows licensing workers to track placement searches for the child. It includes the foster parents or facilities OCS contacted for placement, how they were contacted and the providers' responses. Licensing gives the list of selected providers to the caseworker who selects a provider from the list compiled by the licensing section.

The Fairbanks licensing specialist cited several reasons for the more formal documentation process. The request for placement form is on file in the licensing section so there is a record of the foster parents that OCS contacted and what the licensing staff discussed with the foster parents. This information is helpful to have for future reference and gives OCS a record to refer to if necessary.

### ***OCS Policy and Procedures Concerning Adoption***

**OCS Child Protective Services Manual Section 3.23** establishes agency policy for cases involving adoption. The policy instructs caseworkers how to proceed administratively when someone is interested in adoption through the agency.

**OCS CPS Manual Section 3.23.1** discusses OCS services to adoptive families and eligibility criteria for adoptive parents. The criteria include whether the applicant is able to meet the needs of the adoptive child and is able to provide the child with conditions and opportunities for personal growth. The adoptive parent must be responsible for the child's care, support, education, and character development. The adoptive parent must be capable of providing the child with an environment of security, love, understanding, guidance and companionship.

When selecting adoptive parents, OCS must consider the best interest of the adoptive children. This consideration is paramount in the adoption process.<sup>11</sup>

**OCS CPS Manual Section 3.23.1** lists a series of considerations the caseworker must review when determining whether an adoptive parent is suitable to adopt the child.

---

<sup>11</sup> Office of Children Services Child Protective Services Manual, section 3.23.1.

**OCS CPS Manual Section 3.23.2** manual is titled, “Adoption Inquiries.” The policy provides that anyone expressing interest in adoption should be referred to the regional adoption specialist. The policy manual lists the topics the regional adoption specialist is required to cover with the potential adoptive parent.

The policy instructs regional adoption specialists to review available adoptive children to determine whether the prospective adoptive parent “might be a possible resource for a particular child.”<sup>12</sup>

**OCS CPS Manual Section 3.23.3** establishes a procedure for conducting an adoption intake and initial screening of the potential adoptive parent. It provides that each region set up group or individual meetings to provide interested parties with the information about the children in OCS custody who need permanent homes, the agency’s policies, practices and priorities, and the names and locations of other agencies providing adoption services. (See Appendix A, Adoption Inquiry and Intake flow chart.)

OCS must complete the group or individual meetings for prospective adoptive parents within three months of the initial inquiry. OCS may not provide the potential adoptive parent with an application for adoption until OCS has completed the initial interview.<sup>13</sup>

### ***Alaska Center for Resource Families Role in OCS Adoptions***

OCS Social Services Program Manager Karilee Pietz wrote the following in a January 26, 2011 e-mail to the ombudsman investigator,

. . .adoption intake, orientation, and screening are provided in each region by the Adoption Specialist. We also contract with Alaska Center for Resource Families to provide the adoption intake and orientation. There is a course offered that educates families about adoption through OCS.

The ombudsman investigator discussed ACRF’s role in OCS adoption screening with ACRF Director Aileen McInnis, who is the former ACRF training coordinator for the Anchorage office. Based upon the information the ombudsman investigator received during her earlier conversation with Ms. Pietz about OCS’s adoption intake, orientation and screening process, she asked Ms. McInnis whether the ACRF training was designed to provide adoption intake services in accordance with OCS policy. Ms. McInnis stated she had never heard that people might think of the ACRF CORE training as “adoption intake services” nor had she heard people refer to the ACRF CORE training as part of the adoption intake process for people wishing to adopt through OCS.

Ms. McInnis said ACRF does not do adoption screening as a part of its CORE training. Ms. McInnis explained that foster parent applicants are not required to complete the classes concerning adoption in order to become licensed foster parents.

---

<sup>12</sup> Office of Children Services Child Protective Services Manual, section 3.23.2(m)(1).

<sup>13</sup> OCS Child Protective Services Manual, section 3.23.3, “Procedure.” Enacted March 31, 1989. Superseded July 1, 1999.

Ms. McInnis researched ACRF records and found that the Complainant completed the CORE Workbook as stated earlier. The records further indicate the Wife completed the homework assignment on adoption and guardianship, but she did not participate in the lecture class on adoption.

Betsy Woodin, the ACRF Training Coordinator in the Wasilla office, told the ombudsman investigator she has worked with many families who have adopted children through OCS. She said in each case it has taken years to complete the adoption process. She said that if the prospective adoptive parents have set parameters for the type of children they will accept, their chances for foster placement and adoption through OCS are limited even further.

Ms. Woodin said the ACRF foster parent training curriculum includes a three-hour course about adoption through OCS. Ms. Woodin indicated many people are disappointed about how difficult it is to adopt through OCS. She said:

The vast majority understand OCS's responsibility is child protection and a move to reunification. More and more we emphasize that we support the birth parents getting their children back when warranted. Tribes and family members are in line to foster. We need to make that clear to applicants. It is impossible to predict whether a child is going to be legally free to adopt at the time of an initial placement.

She said during the CORE training she tells people the biological parents have 15 to 22 months to work to get their children returned to them. OCS makes every effort to make certain a child is allowed visitation with their families. Ms. Woodin went on to explain:

The first year OCS has custody, the agency is focused on the birth family. By then OCS caseworkers should have looked at relatives and talked to the tribe and [determined] how well the child is doing with the foster family. OCS might be pushing toward adoption by the third year. This is what we tell the foster parent.

Ms. Woodin said unfortunately the foster parents see others who have adopted and don't understand why it is not happening for them. Ms. Woodin said if the foster parents have parameters for the type of child they are interested in adopting, it significantly restricts the number of placements. A foster parent may not have had a placement in years.

The couple asserted that they knew people who were foster parents in the Mat-Su and who received placements while they received none.

## **THE COMPLAINANTS' INTENT WITH OCS WAS TO ADOPT**

The Complainants applied for a foster license with the intent to adopt a child through OCS. They have said, and there is no evidence to the contrary, that they told staff at the ACRF and OCS that their only goal was to adopt a child. OCS records and testimony of OCS workers do not indicate that OCS staff completed an adoption intake on the couple during or immediately after the foster licensing process. The Complainant indicated on several occasions to both OCS and the ombudsman investigator that he and his wife were not interested in being a foster family other than to facilitate adoption. They wanted foster children who met their adoption criteria with the intent to adopt a suitable child.

Once the couple received their foster care license, OCS entered them into the ORCA database and included their name on the Mat-Su foster care provider call log. The couple said OCS staff

contacted them about the foster placements that did not meet their adoption criteria. The couple believed OCS did not consider their adoption criteria before contacting them about a foster placement.

According to Ms. Frisby, OCS's goal is to find a placement that best meets the needs of the child, not the foster care provider. Generally, the OCS worker wants to place a foster child as quickly as possible in a suitable home—one providing a safe and healthy environment. An issue such as whether the child meets existing adoption criteria is not an immediate concern in the emergency placement process.

The ombudsman investigator asked Licensing Specialist Thomas Hildreth in the Mat-Su office why OCS approved the Complainants for the foster care program when the couple had made it clear they contacted OCS with the sole goal of adopting a child.

Mr. Hildreth explained OCS accepted the couple into the foster licensing program because they attended the agency's foster program orientation and filled out a foster home licensing application.

The Complainants told the ombudsman investigator that no one at the ACRF or OCS Wasilla helped connect them with the Mat-Su Adoption Specialist or anyone in her office. The Complainants said they knew who the Social Worker was and attempted to contact her after they received their foster license. They said the Social Worker was unavailable to take their calls and she did not return their calls when they left messages. The Social Worker acknowledged that she never spoke with the couple until she did the CSS home study more than a year after they applied to become foster parents with the intent to become adoptive parents and five months after their provisional foster parent license was granted. She said she does not recall receiving any messages from the couple to call them.

The Complainants said the first time they met the Social Worker was the day she arrived at their home for the CSS home study in April 2007. The Social Worker agreed with the couple that her visit to their home to conduct the CSS home study was the first time they had met.

The ombudsman investigator asked the Complainants why they had decided to go through OCS to adopt. The Complainant said they wanted to take advantage of the government services available to them rather than spend \$30,000 to \$50,000 on a private adoption. He said they preferred to spend that money on a child.

### ***OCS Adoption Specialists Discuss the Dynamics of Adoption***

The ombudsman investigator interviewed the regional adoption specialists for each region to determine the procedures each office followed when an adoption screening occurs.

The adoption specialists agreed that OCS is not the best place to find a young child to adopt, especially a young child without medical or mental health issues. When seeking an adoptive home for a child in state custody, OCS seeks to find the most appropriate family environment for the child and the agency places children in need of aid into homes that most closely meet the child's specific needs, they agreed. They also stressed that OCS is not first and foremost an adoption agency, although they do provide adoptive services when appropriate to children in the state's custody.

According to the regional adoption specialists throughout the state, when an individual comes to OCS with the sole desire to adopt, they should be referred to the adoption specialist. The adoption specialist is supposed to interview the interested party and decide whether OCS is an appropriate avenue for the individual or whether OCS needs to refer the person to a private adoption agency. The adoption specialist should encourage them to attend the ACRF foster training curriculum and obtain their foster license. However, OCS policy does not require adoptive parents to be licensed foster parents.

During the initial foster placement process, caseworkers are supposed to make every effort to place a child into a foster home where the child has the best chance to remain through adoption should reunification with the biological family be impossible. OCS is supposed to inform the foster parents there are no assurances that the court will not order the foster child returned to their biological parents or that OCS will not find a family member willing to adopt the child before the adoption is completed. The adoption specialists agreed that adoption through OCS can be an uncertain and stressful process for the potential adoptive parents.

### **ALLEGATIONS OF SOCIAL WORKER'S CONFLICT OF INTEREST**

The complainants complained that it was a conflict of interest for the Social Worker to be employed full time with OCS and also work under contract for CSS, which also provides contract services to OCS.

The Social Worker said she worked full time for OCS and part time for Catholic Social Services during 2003 and from 2005 through 2007. State of Alaska Executive Branch employees are covered by the Executive Branch Ethics Act, (Ethics Act) AS 39.52. In part, the Ethics Act requires executive branch employees to disclose if they have secondary employment outside of their State of Alaska job and to obtain approval from their department for that employment.

The Social Worker told the ombudsman investigator she completed ethics disclosure forms in accordance with the Ethics Act for those years and submitted them to her OCS supervisor, James Steele, Wasilla Office Children Services Manager from 2003 to 2007, for his approval and signature. The forms were then to be forwarded to the department's Designated Ethics Supervisor, who would then review the information and either approve or deny permission for the secondary employment. Procedurally, the Designated Ethics Supervisor would then forward a copy of the completed form to the employee and to the Division of Personnel and Labor Relations in Juneau to be placed into the employee's personnel file.

The ombudsman's office obtained copies of the disclosure forms for these years from former H&SS Human Resources Specialist Fran Rabago. The forms indicate that each year Mr. Steele signed the Social Worker's disclosure form indicating he approved her request to work part time for CSS as a home study writer. The form also includes an approval line for the department ethics supervisor. The ethics supervisor signed the 2003 form, but the 2005 through 2007 ethics forms provided to the ombudsman did not have the ethics supervisor's signature.

According to Personnel and Labor Relations Director Nicki Neal, the Social Worker's personnel file at the Division of Personnel and Labor Relations does not contain copies of any of these forms. Ms. Neal was unable to say why the ethics disclosure form was not in the file other than to say HS&S did not provide them. The HS&S Designated Ethics Supervisor who would have reviewed the form retired from the Department several years ago.

According to the State General Administrative Records Retention Schedule, Number 100.3, published in 2009, the state is required to retain original ethics disclosure forms in employees' personnel files at the Division of Personnel and Labor Relations for 60 years.<sup>14</sup> However, Assistant Attorney General Judy Bockmon, the AG's ethics attorney, said that the ethics disclosure forms were not added to the State of Alaska retention schedule until the 2009 publication so there was no requirement that forms created prior to 2009 be retained.

In its Child Protective Services manual, OCS has adopted the National Association of Social Workers' (NASW) code of ethics as its conduct code. The code of ethics is not limited to licensed social workers, but extends to all OCS employees providing services to clients.<sup>15</sup>

Section 1.06(c) of the NASW code of ethics defines the term conflict of interest as it relates to social workers. It reads:

(c) Social workers should not engage in dual or multiple relationships with clients or former clients in which there is a risk of exploitation or potential harm to the client. In instances when dual or multiple relationships are unavoidable, social workers should take steps to protect clients and are responsible for setting clear, appropriate, and culturally sensitive boundaries. (Dual or multiple relationships occur when social workers relate to clients in more than one relationship, whether professional, social, or business. Dual or multiple relationships can occur simultaneously or consecutively.)

### ***OCS Policy Regarding Outside Employment***

**Section 3.24.4** of the OCS Child Protective Services manual sets the agency's policy concerning outside employment. Last modified in 1989, the policy states:

**POLICY:** Division staff will not complete adoption studies for families applying to other agencies unless the request for such services is for a specific child and has been requested by another state agency through the Interstate Compact on Children (ICPC).

OCS policy 3.24.4 applies to OCS caseworkers writing home studies. OCS relied on this policy when it addressed the couple's allegation that it was a conflict of interest for the Social Worker to have prepared their home study for CSS because she was aware from the beginning they were licensed foster parents. OCS has interpreted this policy to mean OCS workers may not write home studies for either OCS or for a private organization as a second job. OCS has, however, provided exceptions to this policy on a case-by-case basis, specifically that workers can write home studies requested under an Interstate Compact with another state. That was not the case in the couple's home study.

\* \* \*

---

<sup>14</sup> See also AS 40.21 the State Records Management Act and 4AAC 59, Archives and Records Management Services.

<sup>15</sup> Alaska Child Protective Services Manual, Section 1.6, page 15 of the manual.

***THIS SECTION REDACTED DUE TO CONFIDENTIALITY REQUIREMENTS***

\* \* \*

**THE HOME STUDY CONTRACT BETWEEN OCS AND CSS**

CSS is a child placement agency. OCS is the agency that licenses agencies to conduct child placement services. The complainants believe that because CSS is dependent upon OCS for their child placement license, it is a conflict of interest for the state to award CSS the grant to write home studies for OCS's Mat-Su office.

**Alaska Statute AS 47.05.015(a) "Contracts"** provides:

- (a) The department may contract with a person or local government for the delivery of services to be provided by the department under AS 47.05.010 if the commissioner determines the service will be provided at less cost to the state or will be provided in a more effective manner.

**AS 47.32.030 Powers of the department; delegation to municipality** provides:

- (a) The department may
  - ...
  - (6) enter into contracts and agreements necessary to carry out the functions, powers, and duties of the department under this chapter;
  - (7) enter into agreements with private entities, municipalities, and individuals to investigate and make recommendations to the department regarding the licensure and monitoring of entities under this chapter;

**The OCS Protective Services Manual at Section 1.0, Introduction** reads:

**1.1 Purpose.**

The Office of Children's Services (OCS) is mandated to provide child welfare services to the citizens of the State of Alaska. Some services are provided directly by OCS employees while other services are purchased through grants and contracts with private providers. In either case, the Division has responsibility for a continuum of child welfare services.

The OCS policy and procedures manual at **Section 3.24.4** restricts OCS workers from writing adoption home studies. Annually, OCS enters into contract agreements with private agencies in each region of the state to prepare its home studies. The state awards the contracts through the Request for Proposal (RFP) process. OCS has entered into a contract with CSS to prepare child specific home studies for the OCS South-Central Region.

The OCS contract established specific hiring and training requirements for contractors to review when considering hiring a home study writer. The contract requires CSS to provide CSS social workers who will prepare home studies for OCS. CSS recruits the social workers that work for them to write home studies. Their recruitment requirements must meet the contract requirements established by OCS. CSS requires that individuals



applying to become CSS home study writers must complete a two-day training program hosted by CSS. According to the contract agreement between OCS and CSS, the applicant begins the process by submitting a resume, writing sample, and background information. Applicants often include individuals who are previous employees of OCS or a private therapeutic program. The contract between the State of Alaska and CSS requires the applicant to have a bachelor's degree in a human services field with two years working with families or a master's degree in a human services field with one year working with families. When CSS selects an applicant for hire, the RFP requires CSS to submit the name to OCS for final approval.

Once accepted, CSS and the contract home study writer enter into a one-year agreement. CSS and the writer renew the agreement each year for as long as the writer remains on the CSS home study writer list.

CSS has approximately 40 home study writers working for them at any given time. CSS services the Anchorage area and the South-Central Region. CSS also had the home study grant for all of Southeast Alaska; however, that grant expired June 30, 2009. The contract for Southeast Alaska was subsequently awarded to the Alaska Center for Resource Families. That contract remains in effect.

As a child placement agency, CSS must seek licensure from OCS. CSS is a licensed child placement agency. According to OCS records, their license continues to be current with the State of Alaska without any periods when it was expired or not renewed in a timely manner.

## ANALYSIS AND PROPOSED PRELIMINARY FINDINGS

AS 24.55.150 authorizes the ombudsman to investigate administrative actions that the ombudsman has reason to believe might be contrary to law, unreasonable, unfair, oppressive, arbitrary, capricious, an abuse of discretion, or unnecessarily discriminatory, even though in accordance with law; based on a mistake of fact; based on improper or irrelevant grounds; unsupported by an adequate statement of reasons; performed in an inefficient or discourteous manner; or otherwise erroneous.

The ombudsman may investigate to find an appropriate remedy.

Under 21 AAC 20.210 the ombudsman evaluates evidence relating to a complaint against a state agency to determine whether criticism of the agency's actions is valid, and then makes a finding that the complaint is *justified*, *partially justified*, *not supported*, or *indeterminate*. A complaint is *justified* "if, on the basis of the evidence obtained during investigation, the ombudsman determines that the complainant's criticism of the administrative act is valid." Conversely, a complaint is *not supported* if the evidence shows that the administrative act was appropriate. If the ombudsman finds both that a complaint is *justified* and that the complainant's action or inaction materially affected the agency's action, the complaint may be found *partially justified*. A complaint is *indeterminate* if the evidence is insufficient to determine whether criticism of the administrative act is valid.

The standard used to evaluate all Ombudsman complaints is **the preponderance of the evidence**. If the preponderance of the evidence indicates that it is more likely than not that the

administrative act took place and the complainant's criticism of it is valid, the allegation should be found justified.

## **ALLEGATION 1: ANALYSIS AND FINDING**

***Unreasonable: OCS staff in the Mat-Su office intentionally failed to place foster children in the complainants' home during the first 15 months that they were licensed foster parents.***

The Office of the Ombudsman's Policies and Procedures Manual at 4040(2) states that an administrative act is unreasonable if:

- (A) the agency adopted and followed a procedure in managing a program that was inconsistent with, or failed to achieve, the purposes of the program,
- (B) the agency adopted and followed a procedure that defeated the complainant's valid application for a right or program benefit, or
- (C) the agency's act was inconsistent with agency policy and thereby placed the complainant at a disadvantage relative to all others.

\* \* \*

The Complainants were licensed foster parents from December 2006 through January 2010. Because the couple received what they considered to be few calls from OCS workers trying to place foster children in their home, they believed OCS was deliberately not placing children in their home.

The Complainants allege OCS staff had retaliated against them because the Wife challenged OCS policy on visitation and reunification between children determined to be in need of aid and their biological parents. The ombudsman found no one who recalled that happening so if the Wife did challenge the OCS policy, it made little impression on those she thought she had offended.

The Complainant told the ombudsman that the first year they were licensed foster parents, the Mat-Su OCS office attempted to contact them only six times to inquire about placing children in their home. Tom Hildreth, licensing specialist at the Mat-Su OCS office, countered that OCS did attempt to place foster children with the Complainants but he has no way of knowing how many attempts were made, because OCS Wasilla office didn't track placement attempts.

OCS workers and the Complainants agreed that early during their tenure as foster parents OCS caseworkers had a problem contacting them when trying to place children.

Ombudsman investigation showed that initially, the OCS Wasilla Office foster parent call list included only the Complainants' "land line" home telephone number. Caseworkers would call the couple at home and leave a message about placing children with them. The Complainants accessed their telephone messages when they returned home at the end of the work day so by the time they returned OCS workers' calls, the children needing placement had already been placed in other foster homes. After the Complainants complained, OCS added the cell phone number to the call list; however, OCS has no record indicating when the cell phone number was added to the call list.

Eleven months after the couple received their provisional foster parent license they received a placement. The placement did not end well. On November 7, 2007, three days after OCS placed four abused, neglected children in the couple's home, the Complainant returned them to OCS.

He had gone to OCS without an appointment to talk with the caseworker about his opposition to OCS's plan to allow family visitation and the decision to set reunification as a planning goal. When the Complainant arrived at OCS to discuss his objections, the children's caseworker was in another scheduled appointment and was unable to meet with him immediately. The Complainant stated he waited four hours; the caseworker said it was more like 45 minutes. The Complainant said they spoke for one minute; the caseworker said it was far longer. The Complainant said he left the OCS office feeling unheard and frustrated because OCS didn't cancel visitation or change the children's case plan. He returned the children to OCS that afternoon. The caseworker says that shortly thereafter the Complainant called to inform her that he and his wife would accept the youngest girl into their home. Mr. Lessman mentioned this offer in an e-mail to the Social Worker. OCS declined to return the child to the couple, citing the damaging effect of multiple placement changes on children in custody.

Shortly after this incident, the Complainants contacted OCS Director Sandoval and HS&S Commissioner Bill Hogan to complain that they weren't getting placements. In one e-mail he stated OCS was not providing them with equal services, and he compared the situation to "Jim Crowe" laws. In response Wasilla OCS workers began logging their attempts to place children with the couple. OCS also designated an Anchorage-based placement specialist to provide information to the Complainants. From May 2008 to February 2009 OCS documented nine contacts and the various reasons the Complainants did not accept the placement:

- On three occasions the couple didn't respond to the OCS caseworker's message;
- In two cases the couple had to discuss whether they would accept the child;
- The Complainant declined one placement because his Wife had the flu;
- The couple declined one placement because the children's mother had Fetal Alcohol Syndrome;
- The couple declined placement of boy and girl siblings because they had only one extra bedroom and didn't want to place them together in one room.
- The couple declined placement of a 15-year-old girl because they felt she would be too old to bond with them before she emancipated.

OCS caseworkers told the ombudsman investigators that the sibling group that the Complainant returned to OCS met the couple's criteria. All of those children have been adopted by other foster parents.

The Complainants relationship with OCS was based on conflicting expectations. The couple's expectation was that OCS would enable them to adopt a healthy young girl quickly and at little or no cost. Their often articulated goal was to foster a child in order to adopt a relatively healthy young girl. Through the years their preference criteria was for a young girl who was immediately available to adopt, who did not have to have visitation with her biological family, who was not too old to bond with; who didn't have fetal alcohol problems; and who did not have severe

disabilities but, if she did, who came with evaluations and prognoses from medical professionals. They would accept a boy only if he had a sister.

Although the Complainants foster parent application clearly stated they wanted to adopt a child, OCS's expectation was that the Complainants would serve as foster parents to children who had been removed from neglectful or abusive homes. Although OCS handles adoptions of children taken into state custody, adoption was clearly a secondary goal for OCS.

The Complainants did not consider that their narrow criteria for acceptable children or the prime mandate of OCS to reunify families might work against them. The Complainant said he pleaded with OCS for improved "services." He often stated OCS was not providing the couple with equal services.

Despite the problems, OCS continued to work with the Complainants. Sue Frisby, the liaison, drafted and distributed to all state OCS offices a list of the couple's criteria for accepting a placement. OCS also offered to distribute the couple's profile to placement agencies in the Lower 48. HS&S Commissioner William Hogan traveled to their rural South-Central Alaska home to discuss the couple's concerns.

Deputy OCS Director Richard Nault wrote to the Complainants on August 7, 2008 and referred them to work with Social Service Associate II Chrisanna Lesmann in the Juneau OCS central office. He also referred them to a private adoption agency. The couple told the ombudsman investigator that they did not contact Ms. Lesmann because by then they had been licensed foster parents for about 20 months and had developed expectations that OCS could *not* meet their goal to adopt through its foster parent program. The couple said they were disillusioned, disappointed, and frustrated.

The reality is that OCS is primarily a child protection agency; it is not primarily a child placement agency. Other private agencies exist to facilitate adoptions of healthy young children. Most of the children OCS deals with are physically and emotionally damaged. OCS caseworkers must act quickly and methodically when placing foster children. They do not have the time or the work force to stop and allow the foster parents to think about whether they are willing to accept a placement. The priority is to find an appropriate home for the foster child as quickly and efficiently as possible. These children cannot be closeted in a back room overnight when caseworkers can't find a foster placement for them. Nor is it good for a child to be removed from their home and bounced from foster placement to foster placement while caseworkers wait for a foster parent to decide if they will take them.

It appears that the Complainants did not fully realize or fully accept the primary role of OCS.

The ombudsman investigation did not find evidence that OCS unreasonably failed to place foster children with the Complainants. The ombudsman found OCS had valid reasons for not placing children in their care.

- The Complainants usually weren't at the home phone number listed on the Mat-Su office's call list until after normal business hours. By the time they fielded and returned case workers' calls, the children had been placed in another foster home.
- The Complainants had a lengthy set of criteria for the age, gender, mental, emotional and intellectual well-being, and adoptability of potential foster children. OCS rarely deals with children without a lot of physical or emotional "baggage" that ruled them out.

- The Complainants wanted children who were immediately available for adoption which is a rarity for children in OCS custody because of the statutory mandate that OCS work toward reunification of child and family before parental rights are terminated and the child adopted into another family.
- OCS is mandated by AS 47.10 to act in the best interests of the child in need of aid. A caseworker who knows a child's specific medical and/or mental health needs must place that child with a foster family who could best meet those needs. Such decisions are not made on a first come, first serve basis.
- OCS prioritizes placing foster children in geographic areas that would allow them to continue to attend their home school; the Complainants lived in an area that didn't have many children taken into custody.
- For the first 11 months they were foster parents the Complainants, by their own account, received at least six calls from OCS. After the Complainants complained to OCS, they were offered children on nine separate occasions and nine times declined to take the children for various reasons.
- The one placement they did have in 2007 ended badly for the children after three days when the Complainant returned them to OCS because the couple disagreed with the OCS workers' plans to initiate visitation between the children and their non-abusing father.
- The four OCS regional adoption specialists unanimously told the ombudsman that couples who considered OCS a surefire way to adopt children, especially when they had rigid criteria for accepting children, would be sorely disappointed.
- Social service agencies that provided training for foster parents regarded OCS as a poor place to look to adopt children because of all of the statutory requirements OCS has to abide by in terms of visitation, reunification, and ICWA priorities.

The ombudsman found no evidence to support the couple's complaint that OCS staff retaliated against the Complainants and deliberately sabotaged their efforts to adopt or that OCS otherwise dealt with them unreasonably. OCS worked with the couple up to and including the Commissioner personally driving to their home to discuss the situation with them. The agency was unable to satisfy the couple.

The preponderance of the evidence gathered in the ombudsman's review concluded:

- There was no evidence that the Complainants' objections to OCS visitation and reunification policies registered as offensive with OCS staff;
- There was ample evidence that OCS attempted to contact the Complainants repeatedly to place children with them but they weren't available or, for various reasons, were unwilling to accept the placement;
- The challenges presented by the Complainants and not OCS retaliation led to the couple not receiving children in pre-adopt placement.

Therefore, the ombudsman proposed to find Allegation 1 **not supported**.

### **OCS Response to Allegation 1 Finding**

OCS Director Christy Lawton responded to the ombudsman's proposed finding on April 13, 2012. Director Lawton did not dispute the finding in Allegation 1. Because OCS did not dispute this finding, Allegation 1 is closed as **not supported**.

\* \* \*

### **ALLEGATION 2: ANALYSIS AND FINDING**

***Unreasonable: OCS did not follow its own policy by not referring the complainants to the OCS adoption screening process after they became licensed foster parents and declared their desire to adopt children through OCS.***

The definition for the Ombudsman standard "unreasonable" as written in the Ombudsman Policies and Procedures Manual 4040(5) is provided in Allegation 1.

It is unclear to the ombudsman whether OCS utilizes the Adoption Inquiry and Intake process as outlined in their policy and procedures. The ombudsman investigator obtained conflicting information from OCS staff and ACRF staff about this question. If the complainants had been referred to the adoption screening process when they first came to OCS, it is possible the entire chain of events in this complaint could have been avoided. But they were not referred.

The Complainants became licensed foster parents for one reason--they wanted to adopt a child.

The OCS Child Protective Services Manual Section 3.23.3 instructs the agency to provide prospective adoptive parents with a group or individual screening. The Complainants clearly articulated when they became foster parents that they wanted to adopt a child through OCS. They maintain they attempted to contact the Social Worker, the adoption specialist by telephone. They said the Social Worker was unavailable, and she did not return their telephone calls. The Social Worker doesn't recall receiving any messages from the couple but admitted to the ombudsman investigator that the first time she met the Complainants was the day she arrived at their house to initiate the CSS home study process; a service she provided in her contract position with CSS. It was unrelated to her position as the OCS adoption specialist. The Complainants knew the position she held at OCS.

The Complainants and the Social Worker agree that that they didn't meet prior to the social worker conducting the CSS home study on the couple. They should have. If the Mat-Su OCS office had completed an adoption screening of the couple either during the licensing process or immediately after issuance of their foster license, a considerable amount of the Complainants' frustrations over the adoption process might have been avoided. For that reason, the ombudsman proposed to find Allegation 2 **justified**.

### **OCS Response to Allegation 2 Finding**

OCS did not dispute the findings in Allegation 2; therefore, this allegation is closed as **justified**.

### **ALLEGATIONS 3 AND 4: ANALYSIS AND FINDINGS**

***Allegation 3: Contrary to law: The OCS social worker who prepared the complainant's home study for a private adoption agency knowingly violated OCS policy 3.24.4 which prohibits such arrangements.***

***Allegation 4: Contrary to Law: The social worker's actions in working for OCS while also contracting to work for Catholic Social Services constituted a violation of the Alaska Executive Branch Ethics Act.***

According to the Office of the Ombudsman's Policies and Procedures Manual at 4040(1), an administrative act is **contrary to law** if it involved:

...

(B) misinterpretation or misapplication of a statute, regulation or comparable requirement;

(D) failure to comply with valid court or administrative orders;

(E) individual misconduct in which a state employee:

(a) performed for an illegal or improper purpose, or

(b) performed in an illegal manner (see AS 11.56.850, AS 11.56.860, or the Executive or Legislative Ethics Acts).

OCS policy 3.24.4 instructs OCS workers not to prepare home studies for outside agencies unless the study is for a specific child being considered for an interstate adoption. The home study that the Social Worker conducted for CSS was not for an interstate adoption of a specific child but to determine if the Complainants were to be placed on the CSS adoption wait list. It did not fit the criteria outlined in 3.24.4 therefore violated OCS policy. The Social Worker was under contract to CSS and was paid \$300 per home study.

CSS adoption coordinator Voni Madsen said she notified the Social Worker that the Complainants informed her that they were licensed foster parents. Ms. Madsen said she was aware that OCS policy prohibited OCS workers from doing home studies under these circumstances but selected the Social Worker anyway because the Complainants told her they were not accepting foster placements. Ms. Madsen said she passed that information on to the Social Worker, who said that the Complainants told her the same thing when they first met. The Complainants deny these conversations occurred.

The Complainants said they were aware the Social Worker was employed by OCS and CSS at the time she initiated contact with them because they had unsuccessfully attempted to contact her in her role as OCS adoption specialist.

When the Social Worker and the Complainants met in her role as CSS home study writer the Social Worker said she gave them the choice of immediately moving forward with her as the home study writer or waiting to request a different writer. The Social Worker said they chose to move forward with her as the writer. She said she relied on the couple's assurances the Couple was no longer accepting foster care placements, and moved forward with the home study. It isn't surprising that they chose to work with the Social Worker rather than risk another delay. They were motivated to adopt quickly. The Social Worker said she didn't learn they were still active foster parents until the Complainant returned the children to OCS in November 2007. Prior to that the Social Worker never checked OCS licensing files or ORCA to confirm if their representations were correct.

The Complainants did not accuse the Social Worker of violating the Ethics Act until CSS removed them from the CSS infant adoption wait list, shortly after the Social Worker notified CSS that they were still active foster parents and had accepted the placement in November.

The Social Worker submitted the required secondary employment form to her supervisor who approved her request to work during her off hours as a home study writer for CSS. Based on this information and other evidence collected by the ombudsman, the ombudsman concluded that the Social Worker did not violate the Ethics Act.

The Social Worker's employment at CSS as home study writer may not have been a violation of the Executive Branch Ethics Act but it clearly violated OCS policy 3.24.4 which prohibits OCS workers from conducting home studies on OCS foster parents for another agency.

This allegation involves a lot of "they said, she said" debate between the Social Worker and the Complainants and between Ms. Madsen and the Complainants. But, whether or not the Complainants declared their intentions to never again foster children, the Social Worker should have refused the home study assignment because the Complainants were foster parents.

The Social Worker had dual employment roles: she was the OCS adoption specialist and a home study writer for CSS. The Complainants were licensed foster parents whose names were on the Mat-Su foster parent call list. The Complainants never directed the Mat-Su OCS office to remove their names from the call list from April 2007 until they failed to renew their foster parent license in 2010. The Social Worker never checked the Complainant's OCS licensing records to confirm that they were no longer accepting foster placements. She accepted Ms. Madsen's representations and, according to the Social Worker, the couple's assurances and placed her ethical responsibilities and reputation in their hands. Had she taken a few moments to check the call list prior to or while conducting her home study this issue would have been stopped before it developed.

The Social Worker did not violate the Executive Branch Ethics Act but did violate OCS policy prohibiting workers from writing home studies for active foster parents. For these reasons the ombudsman proposed to find Allegation 3 justified and Allegation 4 not supported.

#### **OCS Response to Allegation 3 and Allegation 4.**

OCS did not dispute the proposed findings in Allegation 3 or Allegation 4. Therefore, Allegation 3 is closed as justified; and Allegation 4 is closed as not supported.

#### **ALLEGATION 5 ANALYSIS AND FINDING**

***Allegation 5: Arbitrary: (Inadequate standards for delegation of authority) The Office of Children Services awarded a grant to a private non-profit social service agency to conduct home studies, while at the same time administering the agency's child placement license.***

The Office of the Ombudsman's Policies and Procedures Manual at 4040(5) states that an administrative act is performed arbitrarily if:

- (B) the agency's action or decision was based on a delegation of authority to the agency under inadequate standards (standards are "inadequate" if they are



unrelated to the fundamental purposes of the program or statute under which the action or decision is taken);

The complainant believes this business arrangement constitutes a conflict of interest.

Black's Law Dictionary, fifth edition, defines the term "conflict of interest" as follows:

Term used in connection with public officials and fiduciaries and their relationship to matters of private interest or gain to them. Ethical problems connected therewith are covered by statutes in most jurisdictions and by federal statutes on the federal level. Generally, when used to suggest disqualification of a public official from performing his sworn duty, term "conflict of interest" refers to a clash between public interest and the private pecuniary interest of the individual concerned. *Gardner v. Nashville Housing Authority of Metropolitan Government of Nashville and Davidson County, Tenn., C.A. Tenn., 514 F 2d 38, 41.*

Black's ninth edition states the following on conflict of interest:

1. A real or seeming incompatibility between one's private interests and one's public or fiduciary duties. 2. A real or seeming incompatibility between the interests of two of a lawyer's clients, such that the lawyer is disqualified from representing both clients if the dual representation adversely affects either client or if the clients do not consent.

Blacks cited the Gardner V Nashville Housing Authority opinion which included the following:

Conflict of interest is a phrase which may be given many meanings. Generally, however, when it is used to suggest disqualification of a public official for performing his sworn duty, it refers to a clash between the public interest and the private pecuniary interest of the individual concerned.

The complainants assert that the conflict of interest between the SOA and CSS exists because the Office of Children's Services has awarded a home study writing grant to CSS; CSS is also a private child placement agency that depends on the state for its license.

In AS 47.05.015 the Alaska Legislature gave OCS the authority to contract with persons or local governments to provide services the department is to provide pursuant to AS 47.05.010. The statute allows OCS to enter into grants and contracts to assist the agency in providing necessary services to children and their families. Alaska's vast geographic area and small population base limit the pool of resources available to provide the necessary services. OCS has issued a contract to CSS to write home studies in the South-Central Region from the time the Complainants became licensed foster parents to the present. The ombudsman investigator reviewed the RFP and determined that OCS followed proper procedures when issuing the grant.

The OCS Protective Services Manual section 1.0 "Introduction," has established the following:

- 1.1 Purpose. The Office of Children's Services is mandated to provide child welfare services to the citizens of the State of Alaska. Some services are

provided directly by OCS employees while other services are purchased through grants and contracts with private providers. In either case, the Division has responsibility for a continuum of child welfare services.

The existing contract between OCS and CSS meets the requirements established under AS 47.05.015 and AS 36.30. The contract provides that social workers employed by CSS will prepare home studies for OCS. In accordance with the RFP, CSS recruits, hires and trains the home study writers.

The State of Alaska Request for Proposal for the 2007 through 2009 home study writing grants provides that the grantee must submit home study writing applications to OCS for review and final approval before the grantee can offer a position to the applicant.

Once OCS has approved the applicant, CSS and the home study writer enter into a one-year agreement. CSS and the writer renew the agreement each year for as long as the writer remains employed by CSS as a home study writer.

The State of Alaska licenses CSS as a child placement agency. A placement agency is an organization that coordinates the placement of a child in a residential child care facility or an adoptive home. CSS is a private adoption agency and is responsible for following Alaska law, specifically AS 25.23.005 through .240, whenever they administer an adoption.

The ombudsman investigator reviewed OCS's licensing file for CSS and found that OCS has followed its own procedures correctly when licensing CSS, see Chapter 400 of the OCS Community Care Licensing Manual.

OCS and CSS meet the statutory and regulatory guidelines in the management of both the RFP and licensure for CSS as a child placement agency. The ombudsman investigation did not find evidence that the state and OCS employees were somehow maintaining some financial or personal gain through the two agencies' working relationships. For these reasons the ombudsman proposed to find the allegation **not supported**.

#### **OCS Response to Allegation 5 Finding.**

OCS did not dispute the finding in Allegation 5; therefore this allegation is closed as **not supported**.

\* \* \*

### **OMBUDSMAN RECOMMENDATIONS AND OCS RESPONSE**

During the ombudsman investigation, the investigator received conflicting information from OCS staff and ACRF staff as to who screens adoption inquiries. Ms. Peitz stated that ACRF provides intake and screening for persons who want to adopt through OCS. ACRF does not do intake or screening and was unaware that OCS held that misconception.

The ombudsman investigation determined that much of the situation between OCS and the complainants might have been avoided if they had been referred for an adoption screening. Each region handles adoption screening and foster placement differently and it appears Wasilla OCS clearly needs improvement. Therefore the ombudsman proposed the following recommendation:

***Recommendation 1: OCS should evaluate its policies as they relate to the adoption screening process and review the adoption specialists' practices in each of the five regions to determine whether they are following the intent of the policy.***

**OCS Response to Recommendation 1**

On behalf of OCS, Director Lawton accepted Recommendation 1. Ms. Lawton agreed that OCS' policy as it relates to the adoption screening process needs to be reviewed. Ms. Lawton acknowledged the policy regarding the adoption screening process has not been updated since 1999 and that the current policy does not match the current practice model. OCS also agreed to review the adoption specialists' practices for the five state regions in order to determine whether OCS is following the intent of the policy. Ms. Lawton went on to write:

OCS supports this recommendation and will convene a team of OCS regional adoptions specialists and Adoption program staff to review and evaluate the existing policy by May 18, 2012. The evaluation of the policies will consider whether or not the policy needs to be revised and what additional steps are needed to better address improved programmatic processes for adoption inquiries, intakes and screening statewide.

**Ombudsman Comment:**

The agency's response satisfies the intent of the ombudsman's recommendation. This Recommendation will be closed as rectified.

\* \* \*

***Recommendation 2: OCS should consult with ACRF and clear up misconceptions about any role ACRF has or does not have in adoption intake and screening for children in OCS custody.***

**OCS response to Recommendation 2:**

OCS will be meeting with ACRF by May 18<sup>th</sup> to review the current expectations of the grantee with regards to both of the services grants that they currently receive, and the efforts that need to be made to support families in the inquiry and intake/screening processes. An additional area that must be addressed in this meeting is a standard, written process for inquiries is clearly outlined, in which foster and adoptive parent inquiries that are screened by ACRF are consistently referred directly to the OCS region, and the follow-up with the family is conducted as quickly as possible by OCS adoption and licensing staff. Since the start of the new fiscal year is 7/1/12, OCS will consider possible special conditions to each of these grants that will assist ACRF and OCS with standardizing improvements in this process during the next grant period.

**Ombudsman Comment:**

The agency's response satisfies the intent of the ombudsman's recommendation. This Recommendation will be closed as rectified.

\* \* \*

***Recommendation 3: OCS should review the Mat-Su office's foster child placement process to determine whether this process can be administered more efficiently and effectively.***

***Recommendation 4: Mat-Su OCS should require licensing staff and social workers to use the ORCA database instead of the Excel spreadsheet to track foster placements for children in custody.***

The Mat-Su office uses an Excel spreadsheet to maintain a contact list of licensed foster parents in their region. The licensing section updates the spreadsheet based upon information ORCA provides. The ombudsman believes this is not the most effective management practice. ORCA was designed to maintain the foster parent call list along with placement criteria for both the child and the foster parent. The spreadsheet is an unnecessary step offering additional opportunity for human error. The other three regional licensing sections interviewed have created a system similar to one another in which they rely on ORCA to provide them with the names of available foster parents.

For example, the Fairbanks OCS licensing section has case workers submit a placement request form for each placement. This provides a means for tracking each foster placement including the names of the foster parents contacted in the placement process and special needs of the child. In the ombudsman's view, this procedure used in the OCS Northern Region is perhaps the most efficient.

\* \* \*

#### **OCS response to Recommendations 3 & 4.**

Since recommendation 3 & 4 are both related to a specific field office, they are considered together in this response. It should be noted, that the Mat-Su office has been the source of other Ombudsman's complaints with regards to child protection matters over recent years. The OCS leadership and regional management have made significant strides to focus continued attention on improvements in the Mat-Su office specifically. These efforts have demonstrated improvements for this office in which there is more responsive and timely customer service by the Mat-Su staff.

Since the end of this investigation, the Mat-Su office has made improvement in the child placement processes, through the implementation of the Team Decision-Making Model (TDM) for child placement decisions. This model brings the child's significant team members to the table to discuss placement options for the child, with the priority given to available relative care options. The use of TDMs has greatly improved the placement decision making for OCS in the regions where TDM processes are in place, the Mat-Su office is no exception. However, it is recognized that there may be other areas in this process where efficiencies and effectiveness may be identified. Specific to the recommendations in this report, the OCS State Office Program staff will meet with the Mat-Su Regional Management team to review the existing child placement process, inclusive of TDM assessing possible efficiencies and effectiveness in the placement processes generally.

As a part of that review process, the OCS state office and the Mat-Su regional management staff will develop a work plan for the timely elimination of the Excel spreadsheet to track foster care placements for children in custody. Currently, the 4 other OCS service regions are now utilizing the OCS vacancy report produced directly from ORCA to determine timely availability of foster homes for possible placements. The South-Central Region continues to be the only OCS region that has not moved to the primary use of ORCA data when determining vacancies. The plan should provide a transition from the current practice to the ORCA vacancy report by July 1, 2012.

**Ombudsman Response:**

The agency's response satisfies the intent of the ombudsman's recommendations. This Recommendation will be closed as rectified.

\* \* \*

***Recommendation 5: OCS should implement a written standard of review to be used when considering whether they will allow the grantee to hire an applicant as a home study writer.***

The OCS services contract with CSS required the grantee to submit for approval to OCS the names of individuals applying to their agency as home study writers. According to the contract, OCS has the final say in whether or not the grantee can hire an individual applying for a home study writer position. The ombudsman investigation was unable to determine whether OCS has a written standard which they follow for accepting or rejecting each applicant. A written standard for review of each applicant would protect OCS from appearing arbitrary in their decision.

**OCS response to Recommendation 5**

The Office of Children's Services provides adoptive and guardianship home study services through the Permanent Families Grant. The grant program provides specific home study services to families that are currently in the process of adoption or guardianship of a child in OCS custody. . . .As a condition of the Permanent Families Grant, grantees are expected to report all new home study writers (for purposes of this grant) to OCS prior to utilizing the applicant for OCS adoption or guardianship home studies. While this requirement is outlined in the grant requirements, there is not a formal written process for how the home study writers are reviewed by the OCS program manager. Given that this requirement currently exists in the Permanent Families Grant, OCS will provide a written reminder of this requirement to all three of the grantees and will consider the implementation of a standard review process for new home study writers for this grant program. This written reminder will be sent to all grantees by July 1, 2012. Consideration for a standard review process and possible implementation will also occur by July 1, 2012.

**Ombudsman Response:**

The agency's response satisfies the intent of the ombudsman's recommendation. This Recommendation will be closed as rectified.

\* \* \*

## **FINDING OF RECORD AND CLOSURE**

OCS did not object to the proposed findings or present evidence to challenge the findings, therefore this complaint will be closed as *partially justified*. OCS accepted the ombudsman's recommendations and presented a concrete plan to rectify the problems uncovered in this investigation, therefore this complaint will be closed as *fully rectified*.

REDACTED PUBLIC REPORT PER AS 24.55.200

## Appendix I: Adoption inquiry and flow chart

